

1985
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FORTY-NINTH LEGISLATURE
Convened January 14, 1985. Adjourned April 28, 1985.

1st EXTRAORDINARY SESSION
FORTY-NINTH LEGISLATURE
Convened June 10, 1985. Adjourned June 11, 1985.



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DENNIS W. COOPER
Code Reviser

PERTINENT FACTS CONCERNING THE WASHINGTON SESSION LAWS

1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed successively in two editions:
- (i) a temporary pamphlet edition consisting of a series of one or more paper bound pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by
 - (ii) a bound volume edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.
- (b) *Temporary pamphlet edition — where and how obtained — price.* The temporary session laws may be ordered from the Statute Law Committee, Legislative Building, Olympia, Washington 98504 at \$5.39 per set (\$5.00 plus \$.39 for state and local sales tax of 7.8%). All orders must be accompanied by remittance.
- (c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the 1985 session laws, including the special session of June 10 and 11, may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 at \$43.12 per set (\$20.00 per volume plus \$3.12 for state and local sales tax of 7.8%). All orders must be accompanied by remittance.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

Both editions of the session laws present the laws in the form in which they were adopted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

- (a) In amendatory sections
 - (i) underlined matter is new matter.
 - (ii) ~~deleted matter is ((lined out and bracketed between double parentheses)).~~
- (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES

- (a) Vetoeu matter is *printed in italics.*
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted herein pursuant to the authority of RCW 44.20.060 are enclosed in brackets [].

5. EFFECTIVE DATE OF LAWS

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1985 regular session to be July 28, 1985 (midnight July 27). All laws of the 1985 1st extraordinary session had an emergency clause or a prescribed effective date.
- (b) Laws which carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws which prescribe an effective date, take effect upon that date.

6. INDEX AND TABLES

- (a) An index of all laws published in each pamphlet, and pertinent tables, may be found at the back of each respective pamphlet and a cumulative index and tables at the back of the final pamphlet edition and the permanent bound edition.
- (b) The general table of session law sections affected will be discontinued after 1985. Only session law sections that are not codified into the Revised Code of Washington (RCW) will continue to be carried in this table. For session laws that have been assigned RCW numbers, more complete historical information may be found by converting the session law section number to the RCW citation through the codification tables in Volume 0 of the RCW and then using the bracketed history note following the section. The table of RCW sections affected by 1985 statutes, found at the back of this session law volume, should also be consulted.

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CHAPTER 1

[Initiative Measure No. 456]

STEELHEAD TROUT—NATURAL RESOURCES—EQUAL ACCESS—INDIAN
OFF-RESERVATION RIGHTS TERMINATED

AN ACT Relating to state government; and creating new sections.

Be it enacted by the People of the State of Washington:

NEW SECTION. Sec. 1. The people of the state of Washington declare that an emergency exists in the management of salmon and steelhead trout resources such that both are in great peril. An immediate resolution of this crisis is essential to perpetuating and enhancing these resources.

NEW SECTION. Sec. 2. The people of the state of Washington petition the United States Congress to immediately make the steelhead trout a national game fish protected under the Black Bass Act.

NEW SECTION. Sec. 3. The people of the state of Washington declare that conservation, enhancement, and proper utilization of the state's natural resources, including but not limited to lands, waters, timber, fish, and game are responsibilities of the state of Washington and shall remain within the express domain of the state of Washington.

While fully respecting private property rights, all resources in the state's domain shall be managed by the state alone such that conservation, enhancement, and proper utilization are the primary considerations. No citizen shall be denied equal access to and use of any resource on the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same.

NEW SECTION. Sec. 4. The people of the state of Washington declare that under the Indians Citizens Act of 1924, all Indians became citizens of the United States and subject to the Constitution and laws of the United States and state in which they reside. The people further declare that any special off-reservation legal rights or privileges of Indians established through treaties that are denied to other citizens were terminated by that 1924 enactment, and any denial of rights to any citizen based upon race, sex, origin, cultural heritage, or by and through any treaty based upon the same is unconstitutional.

No rights, privileges, or immunities shall be denied to any citizen upon the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same.

NEW SECTION. Sec. 5. The secretary of state shall transmit copies of this act to the president of the United States senate, the speaker of the United States house of representatives, and each member of congress.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Filed in Office of Secretary of State January 13, 1984.

Passed by the vote of the people at the November 6, 1984 state general election.

Proclamation signed by the Governor, December 6, 1984 declaring measure effective law.

CHAPTER 2

[Initiative Measure No. 464]

SALES TAX—TRADE-IN VALUE EXCLUDED FROM SELLING PRICE

AN ACT Relating to sales taxation; amending section 82.08.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 55, Laws of 1983 1st ex. sess. and RCW 82.08.010; and creating a new section.

Be it enacted by the People of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this initiative is to reduce the amount on which sales tax is paid by excluding the trade-in value of certain property from the amount taxable.

Sec. 2. Section 82.08.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 55, Laws of 1983 1st ex. sess. and RCW 82.08.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller(~~-aff~~) without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; but shall not include the amount of cash discount actually taken by a buyer; and shall be subject to modification to the extent modification is provided for in RCW 82.08.080.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe;

(2) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal, except "seller" does not

mean the state and its departments and institutions when making sales to the state and its departments and institutions;

(3) "Buyer" and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally to the provisions of this chapter.

Filed in Office of Secretary of State February 10, 1984.

Passed by the vote of the people at the November 6, 1984 state general election.

Proclamation signed by the Governor, December 6, 1984 declaring measure effective law.

CHAPTER 3

[Senate Bill No. 3065]

LEGISLATIVE PER DIEM

AN ACT Relating to members of the legislature; amending RCW 44.04.120; repealing RCW 44.04.080; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 10, Laws of 1959 ex. sess. as last amended by section 3, chapter 255, Laws of 1979 ex. sess. and RCW 44.04.120 are each amended to read as follows:

~~((Except where the provisions of RCW 44.04.080 apply,))~~ Each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized shall not exceed the greater of

forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he is a member and on the business of which he is engaged.

~~((This section shall not apply to any official travel by legislators which is subject to the provisions of Article 2, section 23 of the state Constitution.))~~

NEW SECTION. Sec. 2. Section 1, chapter 173, Laws of 1941, section 1, chapter 4, Laws of 1945, section 2, chapter 2, Laws of 1953 ex. sess., section 1, chapter 3, Laws of 1957, section 1, chapter 3, Laws of 1965, section 6, chapter 127, Laws of 1965 ex. sess., section 2, chapter 3, Laws of 1969, section 2, chapter 255, Laws of 1979 ex. sess. and RCW 44.04.080 are each repealed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 16, 1985.

Passed the House January 30, 1985.

Approved by the Governor February 4, 1985.

Filed in Office of Secretary of State February 4, 1985.

CHAPTER 4

[Substitute Senate Bill No. 3781]

STATE PATROL PROMOTION EXAMINATIONS

AN ACT Relating to the Washington state patrol; amending RCW 43.43.330; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43.43.330, chapter 8, Laws of 1965 as amended by section 1, chapter 20, Laws of 1969 ex. sess. and RCW 43.43.330 are each amended to read as follows:

Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. Examinations shall be given once every ~~((three))~~ two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the

last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his discretion a committee of three individuals appointed by him, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of lieutenant; (1) Service rating forty percent; (2) written examination thirty percent; (3) oral examination and interview twenty percent; (4) personnel record ten percent: For promotion to the rank of sergeant; (1) Service rating fifty percent; (2) written examination fifty percent.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 18, 1985.

Passed the House March 8, 1985.

Approved by the Governor March 13, 1985.

Filed in Office of Secretary of State March 13, 1985.

CHAPTER 5

[Engrossed Substitute House Bill No. 500]

MEDICAL SERVICES—CERTAIN SERVICES NEED SPECIFIC APPROPRIATION—MEDICAL ASSISTANCE ELIGIBILITY MODIFIED FOR PREGNANT WOMEN

AN ACT Relating to medical care programs; amending RCW 74.09.035, 74.09.510, 74.09.520, and 74.09.700; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 19, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 2, chapter 43, Laws of 1983 1st ex. sess. and RCW 74.09.035 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of general assistance in accordance with medical eligibility requirements established by the department.

(2) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

(3) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

(4) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are eligible for

medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

(5) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

(6) Eligibility for medical care services shall commence with the date of certification for general assistance.

Sec. 2. Section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 5, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09.510 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department of social and health services, including the prohibition under RCW 74.09.532 through 74.09.536 against the knowing and wilful assignment of property or cash for the purpose of qualifying for such assistance, as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for aid to families with dependent children, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) an intermediate care facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; (~~and~~) (5) pregnant women who would be eligible for aid to families with dependent children if the child had been born and was living with the mother during the month of the payment, and the pregnancy has been medically verified; (6) individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act; and (7) other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act.

Sec. 3. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 4, chapter 19, Laws of 1982 1st ex. sess. and RCW 74.09.520 are each amended to read as follows:

The term "medical assistance" may include the following care and services: (1) Inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and x-ray services; (4) skilled nursing home services; (5) physicians' services, which shall include prescribed medication and instruction on birth control devices; (6) medical care, or any other type of remedial care as may be established by the secretary; (7) home health care services; (8) private duty nursing services; (9) dental services; (10) physical therapy

and related services; (11) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (12) other diagnostic, screening, preventive, and rehabilitative services: PROVIDED, That the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

Sec. 4. Section 22, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 1, chapter 43, Laws of 1983 1st ex. sess. and RCW 74.09.700 are each amended to read as follows:

(1) To the extent of available funds, medical care may be provided under the limited casualty program to persons not otherwise eligible for medical assistance or medical care services who are medically needy as defined in the social security Title XIX state plan and medical indigents in accordance with medical eligibility requirements established by the department. This includes residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds three hundred percent of the federal supplement security income benefit level.

(2) Determination of the amount, scope, and duration of medical coverage under the limited casualty program shall be the responsibility of the department, subject to the following:

(a) Only inpatient hospital services; outpatient hospital and rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing home services, intermediate care facility services, and intermediate care facility services for the mentally retarded; home health services; other laboratory and x-ray services; ~~((and))~~ rehabilitative services; medically necessary transportation; and other services for which funds are specifically provided in the omnibus appropriations act shall be covered;

~~(b) ((A patient deductible not to exceed one-half the payment the department makes for the first day's stay for inpatient hospital care, shall be included for the medically needy component of the program;~~

~~(c))~~ Persons who are medically indigent and are not eligible for a federal aid program shall satisfy a deductible of not less than one hundred dollars nor more than five hundred dollars in any twelve-month period;

~~((d))~~ (c) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished:

PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

(3) The department shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical care services. In addition, the department shall include a prohibition against the knowing and wilful assignment of property or cash for the purpose of qualifying for assistance under RCW 74.09.532 through 74.09.536.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 20, 1985.

Passed the Senate March 21, 1985.

Approved by the Governor March 25, 1985.

Filed in Office of Secretary of State March 25, 1985.

CHAPTER 6

[Senate Bill No. 3040]

DEPARTMENT OF COMMUNITY DEVELOPMENT—OBSELETE REFERENCES CORRECTED

AN ACT Relating to the department of community development; amending RCW 28A.57.050, 35.13.171, 35.21.300, 35.21.775, 36.57A.070, 36.57A.150, 36.93.080, 42.17.2401, 43.63A.200, 43.132.030, 43.150.040, 43.160.020, 43.160.030, 43.180.040, 43.180.200, 47.39.040, 49.04.100, 50.38.030, 54.16.285, 54.52.010, 54.52.020, 67.38.070, 70.95.260, 79.08.1078, and 80.28.010; decodifying RCW 43.41.900, 43.41.910, 43.41.920, 43.41.930, 43.41.960, 47.01.111, and 47.01.121; and repealing RCW 43.63A.045.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.57.050 are each amended to read as follows:

The powers and duties of the county committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the county; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the county committee to provide for satisfactory improvement in the school district system of the county and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing districts affected by any proposed

change and the boundaries, including a description thereof, of each proposed new district or of each existing district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the county committee found, after considering the factors listed in RCW 28A.57.055, that no changes in the school district organization of the county were needed, the report to this effect submitted to the state board.

(2) (a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the county committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any district was incurred; the value, location, and disposition of all improvements located in the districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.57.190 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the county committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The county committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof (a) in at least three public places in the territory of each proposed new district or of each established district when such district is involved in a question of adjustment of bonded indebtedness, (b) in at least one public place in territory proposed to be transferred or annexed to an existing school district, (c) on a commonly-used schoolhouse door of each district involved

in or affected by any proposed change or adjustment upon which a public hearing is required; and (d) at the place or places of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To divide into five school directors' districts all first and second class school districts now in existence and not heretofore so divided and all first and second class school districts hereafter established: **PROVIDED**, That no first or second class school district not heretofore so divided and no first or second class school district hereafter created containing a city with a population in excess of seven thousand according to the latest population certificate filed with the secretary of state by the (~~planning and community affairs agency~~) office of financial management shall be divided into directors' districts unless a majority of the registered voters voting thereon at an election shall approve a proposition authorizing the division of the district into directors' districts. The boundaries of each directors' district shall be so established that each such district shall comprise as nearly as practicable an equal portion of the population of the school district.

(5) To rearrange at any time the committee deems such action advisable in order to correct inequalities caused by changes in population and changes in school district boundaries, the boundaries of any of the directors' districts of any school district heretofore or hereafter so divided: **PROVIDED**, That a petition therefor, shall be required for rearrangement in order to correct inequalities caused by changes in population. Said petition shall be signed by at least ten registered voters residing in the aforesaid school district, and shall be presented to the educational service district superintendent. A public hearing thereon shall be held by the county committee, which hearing shall be called and conducted in the manner prescribed in subsection (3) of this section, except that notice thereof shall be posted in some public place in each directors' district of the school district and on a commonly-used schoolhouse door of the district and at the place of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(6) To prepare and submit to the superintendent of public instruction from time to time or, upon his request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

Sec. 2. Section 35.13.171, chapter 7, Laws of 1965 as amended by section 14, chapter 164, Laws of 1973 1st ex. sess. and RCW 35.13.171 are each amended to read as follows:

Within thirty days after the filing of a city's or town's annexation resolution pursuant to RCW 35.13.015 with the board of county commissioners or within thirty days after filing with the county commissioners a petition calling for an election on annexation, as provided in RCW 35.13.020, or within thirty days after approval by the legislative body of a city or town of a petition of property owners calling for annexation, as provided in RCW 35.13.130, the mayor of the city or town concerned that is not subject to the jurisdiction of a boundary review board under chapter 36.93 RCW, shall convene a review board composed of the following persons:

(1) The mayor of the city or town initiating the annexation by resolution, or the mayor in the event of a twenty percent annexation petition pursuant to RCW 35.13.020, or an alternate designated by him;

(2) The chairman of the board of county commissioners of the county wherein the property to be annexed is situated, or an alternate designated by him;

(3) The director of (~~the planning and community affairs agency or any agency successor to the community affairs duties of such agency~~) community development, or an alternate designated by him;

Two additional members to be designated, one by the mayor of the annexing city, which member shall be a resident property owner of the city, and one by the chairman of the county legislative authority, which member shall be a resident of and a property owner or a resident or a property owner if there be no resident property owner in the area proposed to be annexed, shall be added to the original membership and the full board thereafter convened upon call of the mayor: PROVIDED FURTHER, That three members of the board shall constitute a quorum.

Sec. 3. Section 35.21.300, chapter 7, Laws of 1965 as amended by section 1, chapter 251, Laws of 1984 and RCW 35.21.300 are each amended to read as follows:

(1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid, except that until June 30, 1986, electricity for residential space heating may be terminated between November 15 and March 15 only as provided in subsection (2) of this section. In the event of a disputed account and tender by the owner of the premises of the amount he claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

(2) Until June 30, 1986:

(a) Electricity for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) Brings a statement from the department of social and health services or a grantee of the (~~(planning and community affairs agency))~~ department of community development which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination (~~((and))~~) and a description of the customer's duties in this subsection;

(ii) Assist the customer in fulfilling the requirements under this subsection;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan under this subsection moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection.

(3) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan.

Sec. 4. Section 1, chapter 102, Laws of 1979 ex. sess. as last amended by section 82, chapter 230, Laws of 1984 and RCW 35.21.775 are each amended to read as follows:

Whenever a city or town has located within its territorial limits buildings or equipment, except those leased to a nontax-exempt person or organization, owned by the state or an agency or institution of the state, the

state or agency or institution shall contract with the city or town for fire protection services necessary for the protection and safety of personnel and property pursuant to chapter 39.34 RCW, as now or hereafter amended. Nothing in this section shall be construed to require the state, or any state agency or institution, to contract for services which are performed by the staff and equipment of such an entity or by a fire protection district pursuant to RCW 52.30.020. The director of (~~planning and community affairs~~) community development shall present in the budget submitted to the governor for (~~the 1983-85 biennium, and~~) each biennium (~~thereafter~~), an amount sufficient to fund any fire protection service contracts negotiated under the provisions of this section.

Sec. 5. Section 17, chapter 270, Laws of 1975 1st ex. sess. and RCW 36.57A.070 are each amended to read as follows:

The comprehensive transit plan adopted by the authority shall be reviewed by the state transportation commission(~~and if such commission does not exist, by the planning and community affairs agency or its successor~~) to determine:

- (1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;
- (2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;
- (3) Whether such plan coordinates that area's system and service with nearby public transportation systems;
- (4) Whether such plan is eligible for matching state or federal funds;

After reviewing the comprehensive transit plan, the state transportation commission(~~and if such does not exist, the planning and community affairs agency or its successor~~) shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission(~~and if such does not exist, the planning and community affairs agency or its successor~~) shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval.

Sec. 6. Section 25, chapter 270, Laws of 1975 1st ex. sess. as amended by section 41, chapter 151, Laws of 1979 and RCW 36.57A.150 are each amended to read as follows:

Counties that have established a county transportation authority pursuant to chapter 36.57 RCW and public transportation benefit areas that have been established pursuant to this chapter are eligible to receive a one-time advanced financial support payment from the state to assist in the development of the initial comprehensive transit plan required by RCW 36.57.070 and 36.57A.060. The amount of this support payment is established at one dollar per person residing within each county or public transportation benefit area, as determined by the office of financial management, but no single payment shall exceed fifty thousand dollars. Repayment of an advanced financial support payment shall be made to the public transportation account in the general fund or, if such account does not exist, to the general fund by each agency within two years of the date such advanced payment was received. Such repayment shall be waived within two years of the date such advanced payment was received if the voters in the appropriate counties or public transportation benefit areas do not elect to levy and collect taxes enabled under authority of this chapter and RCW 35.95.040 and 82.14.045. The state department of transportation (~~or, if such department does not exist, the planning and community affairs agency~~) shall provide technical assistance in the preparation of local transit plans, and administer the advanced financial support payments authorized by this section.

Sec. 7. Section 8, chapter 189, Laws of 1967 as amended by section 4, chapter 111, Laws of 1969 ex. sess. and RCW 36.93.080 are each amended to read as follows:

Expenditures by the board shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. The (~~planning and community affairs agency, or to whatever entity the local government functions of this agency shall be transferred;~~) department of community development shall on a quarterly basis remit to each county one-half of the actual costs incurred by the county for the operation of the boundary review board within individual counties as provided for in this chapter. However, in the event no funds are appropriated to the said agency for this purpose, this shall not in any way affect the operation of the boundary review board.

Sec. 8. Section 2, chapter 34, Laws of 1984 and RCW 42.17.2401 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of financial management, the director of personnel, the director of (~~the planning and community affairs agency~~) community development, the director of the state system of community colleges, the executive director of the data processing

authority, the executive secretary of the forest (~~((practice[s])~~) practices appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Each member of the state board for community college education, data processing authority, forest practices board, forest practices appeals board, gambling commission, game commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, personnel appeals board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, state housing finance commission, and the utilities and transportation commission.

Sec. 9. Section 1, chapter 244, Laws of 1984 and RCW 43.63A.200 are each amended to read as follows:

The director of (~~((planning and community affairs))~~) community development shall make loans to cities, towns, counties, and special purpose districts of the state for the construction, replacement, rehabilitation, or improvement of roads, bridges, sewers, water systems, dams, lighting, signalization, and traffic flow systems from moneys appropriated therefor from the public works assistance account under RCW 43.79.450. Repayments of loans made under this section and the interest thereon shall be deposited in the public works assistance account.

The director of (~~((planning and community affairs))~~) community development may accept any federal funds which may be available for the purposes of this section and shall deposit such funds in the public works assistance account.

Sec. 10. Section 3, chapter 19, Laws of 1977 ex. sess. as amended by section 150, chapter 151, Laws of 1979 and RCW 43.132.030 are each amended to read as follows:

The director of financial management is hereby empowered to designate the director of (~~the planning and community affairs agency or its statutory successor~~) community development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes.

Sec. 11. Section 4, chapter 11, Laws of 1982 1st ex. sess. and RCW 43.150.040 are each amended to read as follows:

The governor may establish a state-wide center for voluntary action within the (~~planning and community affairs agency or its statutory successor~~) department of community development and appoint a coordinator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the coordinator and the staff.

Sec. 12. Section 2, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 2, chapter 257, Laws of 1984 and RCW 43.160.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the community economic revitalization board.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

(3) "Department" means the department of commerce and economic development or its successor with respect to the powers granted by this chapter.

(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7) "Local government" means any port district, county, city, or town.

(8) (~~"Planning and community affairs agency" means that agency or any successor agency.~~

(9)) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

((+0)) (9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.

((++)) (10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

Sec. 13. Section 3, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 89, chapter 287, Laws of 1984 and RCW 43.160.030 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of nine persons appointed by the governor and the director of commerce and economic development, the director of ~~((planning and community affairs))~~ community development, the director of revenue, the commissioner of employment security, and the chairmen of the committee on commerce and economic development of the house of representatives and the committee on commerce and labor of the senate, or the equivalent standing committees, for a total of seventeen members. The appointive members shall be as follows: A recognized private or public sector economist selected from the governor's council of economic advisors; one port district official; one county official; one city official; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chairman. Thereafter each succeeding term shall be for three years. The representative from the governor's council of economic advisors shall serve as chairman of the board. The director of the department of commerce and economic development shall serve as vice chairman.

(3) Staff support shall be provided by the department of commerce and economic development.

(4) All appointive members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.04 RCW.

Sec. 14. Section 4, chapter 161, Laws of 1983 as amended by section 90, chapter 287, Laws of 1984 and RCW 43.180.040 are each amended to read as follows:

(1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

(a) The state treasurer, ex officio;

(b) The director of ~~((the planning and community affairs agency))~~
community development, ex officio;

(c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;

(d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;

(e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;

(f) A representative of low-income persons, appointed by the governor with the consent of the senate;

(g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor

shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the (~~(planning and community affairs agency)~~) department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.04 RCW.

Sec. 15. Section 20, chapter 161, Laws of 1983 as amended by section 1, chapter 28, Laws of 1984 and RCW 43.180.200 are each amended to read as follows:

For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, the state ceiling for each of the calendar years (~~(+1983)~~) through 1986 shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the (~~(planning and community affairs agency, or~~

~~its successor,))~~ department of community development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the ~~((planning and community affairs agency))~~ department of community development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. ~~((However, for calendar year 1983, the distribution shall be made on or before September 1, 1983. After 1983))~~ Each issuing authority other than the commission shall confirm its allocation distribution by providing to the ~~((planning and community affairs agency))~~ department of community development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency.

~~((d) For calendar year 1983, the allocations to issuing authorities, other than the commission, shall include bonds issued by the authorities during the first six months of 1983. However, the planning and community affairs agency, or its successor, shall adopt rules to ensure that the total amount of bonds issued by the authorities during the six-month period does not exceed their twenty percent share and that the total amount of bonds issued by any single issuing authority during such period does not exceed twenty-five million dollars.))~~

Sec. 16. Section 4, chapter 85, Laws of 1967 ex. sess. as amended by section 208, chapter 7, Laws of 1984 and RCW 47.39.040 are each amended to read as follows:

The establishment of planning and design standards for items provided for in RCW 47.39.050 shall be coordinated by the state ~~((planning and community affairs agency))~~ department of community development. The department of transportation, parks and recreation commission, and any other departments or commissions whose interests are affected shall prepare, submit, and file with the state ~~((planning and community affairs agency))~~ department of community development standards relating to the scenic and

recreational highway system. If varying planning and design standards are filed, the state (~~(planning and community affairs agency)~~) department of community development shall consult with the submitting agencies on the merits of the several proposals and, based upon such consultation, establish a set of standards. Pursuant to the planning and design standards so established, the department of transportation and the parks and recreation commission shall develop the highways and areas adjacent thereto to accomplish the purposes of this chapter, but the department shall retain exclusive authority over the highway right of way.

Responsibility for construction and maintenance is hereby established between the department and the parks and recreation commission with the department responsible for activities financed with funds provided for under RCW 47.39.030(1) and the parks and recreation commission responsible for activities financed from other sources of funds. By mutual consent, responsibility for development and/or maintenance may be transferred between the two agencies.

Sec. 17. Section 2, chapter 183, Laws of 1969 ex. sess. and RCW 49.04.100 are each amended to read as follows:

Joint apprenticeship programs entered into under authority of chapter 49.04 RCW and which receive any state assistance in instructional or other costs, shall as a part thereof include entrance of minority races in such program, when available, in a ratio not less than the ratio which the minority race represents in population to the actual population in the city or trade area concerned, based on current census figures issued by the (~~(planning and community affairs agency)~~) office of financial management with the ultimate goal of obtaining the proportionate ratio of representation in the total program membership. Where minimum standards have been set for entering upon any such apprenticeship program, this minority race representation shall be filled when minority race applicants have met such minimum standards and irrespective of individual ranking among all applicants seeking to enter the program: PROVIDED, That nothing in RCW 49.04.100 through 49.04.130 will affect the total number of entrants into the apprenticeship program or modify the dates of entrance both as established by the joint apprenticeship committee. Minority race for the purposes of RCW 49.04.100 through 49.04.130 shall include Blacks, Mexican Americans or Spanish Americans, Orientals and Indians or Filipinos.

Sec. 18. Section 3, chapter 43, Laws of 1982 and RCW 50.38.030 are each amended to read as follows:

The employment security department shall consult with the following agencies prior to the issuance of the state occupational forecast:

- (1) Office of financial management;
- (2) Department of commerce and economic development;
- (3) Department of labor and industries;
- (4) State board for community college education;

- (5) Superintendent of public instruction;
- (6) Department of social and health services;
- (7) (~~Planning and community affairs agency~~) Department of community development;
- (8) Commission for vocational education; and
- (9) Other state and local agencies as deemed appropriate by the commissioner of the employment security department.

These agencies shall cooperate with the employment security department, submitting information relevant to the generation of occupational forecasts.

Sec. 19. Section 2, chapter 251, Laws of 1984 and RCW 54.16.285 are each amended to read as follows:

(1) A district providing utility service for residential space heating shall not terminate such utility service between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(b) Brings a statement from the department of social and health services or a grantee of the (~~planning and community affairs agency~~) department of community development which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(2) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination (~~((and))~~) and a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area; and

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section.

~~((4))~~ (3) This section shall expire June 30, 1986.

Sec. 20. Section 1, chapter 59, Laws of 1984 and RCW 54.52.010 are each amended to read as follows:

A public utility district may include along with, or as part of its regular customer billings, a request for voluntary contributions to assist qualified low-income residential customers of the district in paying their electricity bills. All funds received by the district in response to such requests shall be transmitted to the grantee of the (~~((planning and community affairs agency))~~) department of community development which administers federally funded energy assistance programs for the state in the district's service area or to a charitable organization within the district's service area. All such funds shall be used solely to supplement assistance to low-income residential customers of the district in paying their electricity bills. The grantee or charitable organization shall be responsible to determine which of the district's customers are qualified for low-income assistance and the amount of assistance to be provided to those who are qualified.

Sec. 21. Section 2, chapter 59, Laws of 1984 and RCW 54.52.020 are each amended to read as follows:

All assistance provided under this chapter shall be disbursed by the grantee or charitable organization. Where possible the public utility district will be paid on behalf of the customer by the grantee or the charitable organization. When direct vendor payment is not feasible, a check will be issued jointly payable to the customer and the public utility district. The availability of funds for assistance to a district's low-income customers as a result of voluntary contributions shall not reduce the amount of assistance for which the district's customers are eligible under the federally funded energy assistance programs administered by the grantee of the (~~((planning and community affairs agency))~~) department of community development within the district's service area. The grantee or charitable organization shall provide the district with a quarterly report on January 15th, April 15th, July 15th, and October 15th which includes information concerning the total amount of funds received from the district, the names of all recipients of assistance from these funds, the amount received by each recipient,

and the amount of funds received from the district currently on hand and available for future low-income assistance.

Sec. 22. Section 7, chapter 22, Laws of 1982 1st ex. sess. and RCW 67.38.070 are each amended to read as follows:

The comprehensive cultural arts, stadium and convention plan adopted by the district shall be reviewed by the state (~~(planning and community affairs agency, or its successor,)~~) department of community development to determine:

(1) Whether the plan will enhance the progress of the state and provide for the general welfare of the population; and

(2) Whether such plan is eligible for matching federal funds.

After reviewing the comprehensive cultural arts, stadium and convention plan, the state (~~(planning and community affairs agency, or its successor,)~~) department of community development shall have sixty days in which to approve such plan and to certify to the state treasurer that such district shall be eligible to receive funds. To be approved a plan shall provide for coordinated cultural arts, stadium and convention planning, and be consistent with the public cultural arts, stadium and convention coordination criteria in a manner prescribed by chapter 35.60 RCW. In the event such comprehensive plan is disapproved and ruled ineligible to receive funds, the state (~~(planning and community affairs agency, or its successor,)~~) department of community development shall provide written notice to the district within thirty days as to the reasons for such plan's disapproval and such ineligibility. The district may resubmit such plan upon reconsideration and correction of such deficiencies cited in such notice of disapproval.

Sec. 23. Section 26, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.260 are each amended to read as follows:

The department shall in addition to its other powers and duties:

(1) Cooperate with the appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the provisions of this chapter.

(2) Coordinate the development of a solid waste management plan for all areas of the state in cooperation with local government, the (~~(planning and community affairs agency or its successor)~~) department of community development, and other appropriate state and regional agencies. The plan shall relate to solid waste management for twenty years in the future and shall be reviewed biennially, revised as necessary, and extended so that perpetually the plan shall look to the future for twenty years as a guide in carrying out a state coordinated solid waste management program.

(3) Provide technical assistance to any person as well as to cities, counties, and industries.

(4) Initiate, conduct, and support research, demonstration projects, and investigations, and coordinate research programs pertaining to solid waste management systems.

(5) May, under the provisions of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended, from time to time promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

Sec. 24. Section 1, chapter 129, Laws of 1969 ex. sess. and RCW 79.08.1078 are each amended to read as follows:

(1) A public hearing may be held prior to any withdrawal of state trust lands and shall be held prior to any revocation of withdrawal or modification of withdrawal of state trust lands used for recreational purposes by the department of natural resources or by other state agencies.

(2) The department shall cause notice of the withdrawal, revocation of withdrawal or modification of withdrawal of state trust lands as described in subsection (1) of this section to be published by advertisement once a week for four weeks prior to the public hearing in at least one newspaper published and of general circulation in the county or counties in which the state trust lands are situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office, in the district office in which the land is situated, and in the office of the county auditor in the county where the land is situated thirty days prior to the public hearing. The notice shall specify the time and place of the public hearing and shall describe with particularity each parcel of state trust lands involved in said hearing.

(3) The board of natural resources shall administer the hearing according to its prescribed rules and regulations.

(4) The board of natural resources shall determine the most beneficial use or combination of uses of the state trust lands. Its decision will be conclusive as to the matter: **PROVIDED, HOWEVER,** That said decisions as to uses shall conform to applicable state plans and policy guidelines adopted by the ~~((planning and community affairs agency))~~ department of community development.

Sec. 25. Section 80.28.010, chapter 14, Laws of 1961 as amended by section 4, chapter 251, Laws of 1984 and RCW 80.28.010 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable.

(4) Until June 30, 1986:

(a) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) Brings a statement from the department of social and health services or a grantee of the ~~((planning and community affairs agency))~~ department of community development which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination ~~((and))~~ and a description of the customer's duties in this subsection;

(ii) Assist the customer in fulfilling the requirements under this subsection;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan under this subsection moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection.

~~((d))~~ (c) A payment plan implemented under this subsection is consistent with RCW 80.28.080.

(5) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan.

(6) Every gas company, electrical company and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public.

NEW SECTION. Sec. 26. RCW 43.41.900, 43.41.910, 43.41.920, 43.41.930, 43.41.960, 47.01.111, and 47.01.121 are each decodified.

NEW SECTION. Sec. 27. Section 21, chapter 125, Laws of 1984 and RCW 43.63A.045 are each repealed.

Passed the Senate January 21, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 7

[Senate Bill No. 3041]

OBSELETE STATUTORY REFERENCES AND NOMENCLATURE CORRECTED

AN ACT Relating to obsolete statutory references and nomenclature in the Revised Code of Washington; amending RCW 3.58.010, 9A.64.030, 13.04.093, 18.08.150, 18.08.190, 18.08.220, 18.11.080, 18.11.100, 18.11.110, 18.22.060, 18.22.081, 18.22.120, 18.25.020, 18.25.040, 18.25.050, 18.25.070, 18.28.030, 18.29.020, 18.29.040, 18.29.060, 18.29.070, 18.32.110, 18.32.120, 18.32.170, 18.32.180, 18.32.210, 18.32.225, 18.34.070, 18.35.040, 18.35.060, 18.35.080, 18.35.090, 18.36.040, 18.36.050, 18.36.115, 18.39.050, 18.39.120, 18.39.130, 18.39.145, 18.39.150, 18.43.050, 18.43.080, 18.43.100, 18.43.110, 18.43.130, 18.44.010, 18.50.050, 18.50.102, 18.52.130, 18.53.050, 18.53.070, 18.55.040, 18.55.050, 18.57.050, 18.57.130, 18.57A.040, 18.59.110, 18.64.009, 18.64.160, 18.71A.040, 18.72.380, 18.74.050, 18.74.060, 18.78.080, 18.78.090, 18.83.105, 18.88.160, 18.88.190, 18.88.200, 18.92.115, 18.92.140, 18.92.145, 18.96.080, 18.96.100, 18.96.110, 18.96.140, 18.106.090, 18.108.060, 18.108.160, 19.16.140, 19.16.150, 19.31.040, 19.31.140, 23A.28.240, 26.26.030, 26.26.190, 28A.24.172, 28A.41.143, 28A.52.070, 28A.56.020, 28A.56.050, 28A.58.131, 28A.58.137, 28A.58.435, 28B.05.040, 30.04.160, 31.12A.010, 31.12A.030, 35.58.274, 35A.27.010, 35A.82.010, 35A.88.030, 36.18.020, 36.64.060, 40.10.020, 41.56.020, 43.10.067, 43.131.323, 43.220.070, 46.16.340, 46.68.124, 47.56.286, 48.46.120, 48.46.360, 50.04.225, 52.06.085, 52.08.025, 52.08.041, 52.16.130, 52.18.010, 52.18.020, 53.08.320, 63.21.080, 63.40.050, 63.42.060, 67.70.220, 70.105A.030, 70.120.030, 70.120.110, 70.136.030, 74.13.100, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.46.180, 74.46.520, 74.46.760, 75.44.100, 81.80.300, 81.80.318, 82.04.460, 82.49.070, and 84.40.405; reenacting and amending RCW 46.16.015 and 80.50.030; and decodifying RCW 47.56.620.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 100, chapter 299, Laws of 1961 as last amended by section 2, chapter 186, Laws of 1983 and RCW 3.58.010 are each amended to read as follows:

The annual salary of each full time district court judge shall be ninety percent of the salary of a judge of a superior court: PROVIDED, That in cities having a population in excess of four hundred thousand, the city which pays the salary may increase such salary of its municipal judges to an

amount not more than the salary paid the superior court judges in the county in which the court is located: PROVIDED FURTHER, That a member of the legislature whose term of office is partly coextensive with or extends beyond the present term of office of any of the officials whose salary is increased by virtue of the provisions of RCW 43.03.010, (~~2.04.090; 2.06.060; 2.08.090~~) 2.04.092, 2.06.062, 2.08.092, and 3.58.010(~~(as now or hereafter amended);~~) shall be eligible to be appointed or elected to any of the offices the salary of which is increased hereby but he shall not be entitled to receive such increased salary until after the expiration of his present term of office and his subsequent election or reelection to the office to which he was appointed or elected respectively during his term of office as legislator.

EXPLANATORY NOTE: RCW 2.04.090, 2.06.060, and 2.08.090 were repealed by 1984 c 258 § 404, effective July 1, 1985. The reference to these sections has been amended to refer to later enactments, RCW 2.04.092, 2.06.062, and 2.08.092, respectively, that contain the substance of the repealed sections. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 2. Section 2, chapter 135, Laws of 1984 and RCW 9.46.116 are each amended to read as follows:

The commission shall charge fees or increased fees on pull tabs sold over-the-counter and on sales from punchboards and pull tab devices at levels necessary to assure that the increased revenues are equal or greater to the amount of revenue lost by removing the special tax on coin-operated gambling devices (~~(in section 1 of this act)~~) by the 1984 repeal of RCW 9.46.115.

EXPLANATORY NOTE: "Section 1 of this act" is amendatory language in 1984 c 135 § 2 referring to 1984 c 135 § 1 which repealed RCW 9.46.115.

Sec. 3. Section 3, chapter 85, Laws of 1980 and RCW 9A.64.030 are each amended to read as follows:

- (1) It is unlawful for any person to sell or purchase a minor child.
- (2) A transaction shall not be a purchase or sale under subsection (1) of this section if any of the following exists:
 - (a) The transaction is between the parents of the minor child; or
 - (b) The transaction is between a person receiving or to receive the child and (~~(a benevolent or charitable society)~~) an agency recognized under RCW (~~(26.37.010, as now existing or hereafter amended)~~) 26.33.020; or
 - (c) The transaction is between the person receiving or to receive the child and a state agency or other governmental agency; or
 - (d) The transaction is pursuant to chapter 26.34 RCW(~~(as now existing or hereafter amended)~~); or
 - (e) The transaction is pursuant to court order; or
 - (f) The only consideration paid by the person receiving or to receive the child is intended to pay for the prenatal hospital or medical expenses

involved in the birth of the child, or attorneys' fees and court costs involved in effectuating transfer of child custody.

(3) Child selling is a class C felony and child buying is a class C felony.

EXPLANATORY NOTE: RCW 26.37.010 was repealed by 1984 c 155 § 39, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.020, that contains the substance of the repealed section. The phrase "as now existing or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 4. Section 9, chapter 291, Laws of 1977 ex. sess. as amended by section 6, chapter 165, Laws of 1979 ex. sess. and RCW 13.04.093 are each amended to read as follows:

It shall be the duty of the prosecuting attorney to act in proceedings relating to the commission of a juvenile offense as provided in RCW 13.40.070 and 13.40.090 and in proceedings under RCW 72.23.070. It shall be the duty of the prosecuting attorney to handle delinquency cases under ~~((Title [chapter]))~~ chapter 13.24 RCW and it shall be the duty of the attorney general to handle dependency cases under ~~((Title [chapter]))~~ chapter 13.24 RCW. It shall be the duty of the attorney general in contested cases brought by the department to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship or any contested case filed under RCW ~~((26.32.034(2)))~~ 26.33.100 or approving or disapproving alternative residential placement: **PROVIDED**, That in class 1 through 9 counties the attorney general may contract with the prosecuting attorney of the county to perform said duties of the attorney general.

EXPLANATORY NOTE: RCW 26.32.034 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.100, that contains the substance of the repealed section.

Sec. 5. Section 6, chapter 323, Laws of 1959 as amended by section 1, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.150 are each amended to read as follows:

All applications for examination must be filed with the director not less than sixty days prior to the date set for the examination. The application fee shall be determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086. Should the director deny issuance of a certificate of registration to any applicant, the examination fee shall not be refundable. Graduates of an approved architectural college may apply for and take the examination but shall not be granted certificates of registration until their required office experience is completed.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 6. Section 10, chapter 323, Laws of 1959 as last amended by section 2, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.190 are each amended to read as follows:

Certificates of registration shall expire on the last day of June following their issuance or renewal. The director shall set the yearly fee for renewal which fee shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. Renewal may be effected during the month of June by payment to the director of the fee set. In case any registrant fails to pay the renewal fee before thirty days after the due date, the renewal fee shall be the current fee plus an amount equal to one year's fee: PROVIDED, That any registrant in good standing may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current annual renewal fee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 7. Section 13, chapter 323, Laws of 1959 as amended by section 3, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.220 are each amended to read as follows:

The director may reinstate a certificate of registration to any person whose certificate has been revoked, if three or more members of the board vote in favor of such reissuance, whenever the board shall find that the circumstances or conditions that brought about the revocation are not likely to recur and that the person is then sufficiently trustworthy and reliable that the best interests of the public will be served by reinstatement of his registration. A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued by the director and a charge determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be made for such issuance.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 8. Section 3, chapter 205, Laws of 1982 and RCW 18.11.080 are each amended to read as follows:

The department shall license each applicant for a certificate of registration under this chapter who applies in writing on a form prescribed by the director with such information as the director requires. The director shall set license and renewal fees in accordance with RCW (~~43.24.085~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 9. Section 8, chapter 205, Laws of 1982 and RCW 18.11.100 are each amended to read as follows:

(1) A nonresident of this state may be licensed as an auctioneer upon complying with the rules of the department and this chapter.

(2) The department may accept, in lieu of the recommendations and statements otherwise required to accompany the application for a license, an auctioneer's license issued to the applicant by the state of his or her domicile upon the payment by the applicant of the proper license fee and filing with the department of a certified copy of the license issued by the other state. This section shall only apply to licensed auctioneers of those states under the laws of which similar recognition and courtesies are extended to licensed auctioneers of this state.

(3) The application of a person for a nonresident auctioneer's license under this chapter shall constitute the appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer.

(4) Nonresidents must pay the issuance fee, annual renewal fees, and such other fees as prescribed by the director under RCW (~~(43.24.085)~~) 43.24.086, and file the bond or proof of the establishment of a trust account as required by this chapter.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 10. Section 9, chapter 205, Laws of 1982 and RCW 18.11.110 are each amended to read as follows:

Upon application and the payment of a fee as provided under RCW (~~(43.24.085)~~) 43.24.086, the department shall issue a trainee auctioneer's license to a person under the age of eighteen years if the department finds that:

(1) The applicant meets the other qualifications and requirements for an applicant for a license as an auctioneer;

(2) An auctioneer licensed under this chapter has given written notice to the department that he or she has agreed to employ the applicant as a trainee auctioneer, that he or she will assume responsibility for acts of the applicant in the conduct of auction business and sales, and that he or she will be present and supervise any auction sale conducted by the applicant; and

(3) The applicant has furnished security as required by RCW 18.11.120 or proof that the bond or trust account of the employer auctioneer under RCW 18.11.120 requires the auctioneer to pay all legal claims which

may accrue in favor of any person arising out of auction business transacted under the auctioneer's direction.

No trainee licensed under this section may sell his or her own property at an auction sale which the trainee conducts, or sell any property by auction unless the employer auctioneer is present at the time of the auction sale.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 11. Section 14, chapter 52, Laws of 1957 as last amended by section 7, chapter 21, Laws of 1982 and RCW 18.22.060 are each amended to read as follows:

Every applicant for a license to practice podiatry shall pay to the state treasurer a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

An applicant who fails to pass an examination satisfactorily is entitled to reexamination at a meeting called for the examination of applicants, upon the payment of a fee for each reexamination determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 12. Section 3, chapter 97, Laws of 1965 as last amended by section 12, chapter 21, Laws of 1982 and RCW 18.22.081 are each amended to read as follows:

Any applicant who has been examined and licensed under the laws of another state which grants the holders of certificates from the proper authorities of this state the full privileges of practice within its borders or an applicant who has satisfactorily passed examinations given by the national board of podiatry examiners may, in the discretion of the board and after examination by the board in the clinical application of dermatology, biomechanics, surgery, medicine, podiatric medicine, radiology, pharmacology, laboratory procedures, and any other subjects the board may require by regulation, be granted a license on the payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 to the state treasurer if the applicant has not previously failed to pass an examination held in this state. If the applicant was licensed in another state, the applicant must file with the director a copy of the license certified by the proper authorities of the issuing state to be a full and true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 13. Section 6, chapter 149, Laws of 1955 as last amended by section 14, chapter 21, Laws of 1982 and RCW 18.22.120 are each amended to read as follows:

Every person practicing podiatry must renew his or her license each year and pay a renewal fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

Failure to register and pay the annual renewal fee invalidates the license, but it shall be reinstated upon written application to the director and payment to the state of a penalty of ten dollars, together with all delinquent annual renewal fees: PROVIDED, That a person who fails to renew his or her license for a period of three years is not entitled to renewal under this section but must file an original application as provided in this chapter, and pay the required fee. The board may permit an applicant whose license has lapsed in this manner to be licensed without examination if it determines that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of podiatry.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 14. Section 5, chapter 5, Laws of 1919 as last amended by section 19, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.25.020 are each amended to read as follows:

(1) Any person not now licensed to practice chiropractic in this state and who desires to practice chiropractic in this state, before it shall be lawful for him to do so, shall make application therefor to the director, upon such form and in such manner as may be adopted and directed by the director. Each applicant who matriculates after January 1, 1975, shall have completed not less than one-half of the requirements for a baccalaureate degree at an accredited and approved college or university and shall be a graduate of a chiropractic school or college accredited and approved by the board of chiropractic examiners and shall show satisfactory evidence of completion by each applicant of a resident course of study of not less than four thousand classroom hours of instruction in such school or college. Applications shall be in writing and shall be signed by the applicant in his own handwriting and shall be sworn to before some officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to a knowledge of the care of the sick, how long he has studied chiropractic, under what teachers, what

collateral branches, if any, he has studied, the length of time he has engaged in clinical practice; accompanying the same by reference therein, with any proof thereof in the shape of diplomas, certificates, and shall accompany said application with satisfactory evidence of good character and reputation.

(2) There shall be paid to the director by each applicant for a license, a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 which shall accompany application and a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which shall be paid upon issuance of license. Like fees shall be paid for any subsequent examination and application.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 15. Section 14, chapter 5, Laws of 1919 as last amended by section 20, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.25.040 are each amended to read as follows:

Persons licensed to practice chiropractic under the laws of any other state having equal requirements of this chapter, may, in the discretion of the board of chiropractic examiners, and after examination by the board in principles of chiropractic, x-ray, and adjusting, as taught by chiropractic schools and colleges, be issued a license to practice in this state without further examination, upon payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 16. Section 8, chapter 5, Laws of 1919 as last amended by section 2, chapter 277, Laws of 1981 and RCW 18.25.050 are each amended to read as follows:

(1) The director may refuse to grant or may revoke a license to practice chiropractic in this state upon any of the following grounds, to wit: The employment of fraud or deception in applying for a license or in passing an examination provided for in this chapter; the practice of chiropractic under a false or assumed name, or the impersonation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, controlled substances, or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties; exploiting or advertising through the press, or by the use of handbills, circulars, or other periodicals, other than professional cards, giving only name, address, profession, office hours, and

telephone connections. Any person who is a licentiate, or who is an applicant for a license to practice chiropractic against whom any of the foregoing grounds for revoking or refusing a license, is presented to said director with a view of having the director revoke or refuse to grant a license, shall be furnished with a copy of the complaint, and shall have a hearing before said director in person or by attorney, and witnesses may be examined by said director respecting the guilt or innocence of said accused.

(2) Said director may at any time within two years of the refusal or revocation or cancellation of registration under this section, issue a new license or grant a license to the person affected, restoring him to, or conferring upon him all the rights and privileges of, and pertaining to the practice of chiropractic as defined and regulated by this chapter. Any person to whom such have been restored shall pay to the director a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 upon issuance of a new license.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 17. Section 10, chapter 5, Laws of 1919 as last amended by section 2, chapter 51, Laws of 1980 and RCW 18.25.070 are each amended to read as follows:

(1) Every person practicing chiropractic shall, as a prerequisite to annual renewal of license, submit to the director at the time of application therefor, satisfactory proof showing attendance of at least twenty-five hours during the preceding three-year period, at one or more chiropractic symposiums which are recognized and approved by the board of chiropractic examiners: PROVIDED, That the board may, for good cause shown, waive said attendance. The following guidelines for such symposiums shall apply:

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

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

(2) Every person practicing chiropractic within this state shall pay on or before the first day of September of each year, after a license is issued to him as herein provided, to said director a renewal license fee to be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. The director shall, thirty days or more before September first of each year, mail to all chiropractors in the state a notice of

the fact that the renewal fee will be due on or before the first of September. Nothing in this chapter shall be construed so as to require that the receipts shall be recorded as original licenses are required to be recorded.

The failure of any licensed chiropractor to pay his annual license renewal fee by the first day of October following the date on which the fee was due shall work a forfeiture of his license. It shall not be reinstated except upon evidence that continuing educational requirements have been fulfilled and the payment of a penalty to be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement. Should the licentiate allow his license to elapse for more than three years, he must be reexamined as provided for in RCW 18.25.040.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 18. Section 3, chapter 201, Laws of 1967 as last amended by section 23, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.28.030 are each amended to read as follows:

An application for a license shall be in writing, under oath, and in the form prescribed by the director. The application shall contain such relevant information as the director may require, but in all cases shall contain the name and residential and business addresses of each individual applicant, and of each member when the applicant is a partnership or association, and of each director and officer when the applicant is a corporation.

Except as provided hereinafter in this section the applicant shall pay an investigation fee and a licensing fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086: PROVIDED, That a branch office of a licensed debt adjusting agency need not pay an investigation fee but only the licensing fee. If a license is not issued in response to the application, the director shall return the licensing fee to the applicant. An annual license fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, shall be paid to the director by January 1st of each year. If the annual license fee is not paid by January 1st, the licensee shall be assessed a penalty for late payment determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. And if the fee and penalty are not paid by January 31st, reapplication for a new license will be necessary, which may include taking any examination prescribed by the director.

The applicant shall file a surety bond with the director or in lieu thereof the applicant may file with the director a cash deposit or other negotiable security acceptable to the director and under conditions set forth in RCW 18.28.040: PROVIDED, That each branch office of a debt adjusting

agency shall be required to be bonded as provided herein, but no bond will be required of an individual applicant while he is employed by a bonded debt adjusting agency or branch thereof.

The applicant shall furnish the director with such proof as the director may reasonably require to establish the qualifications set forth in RCW 18.28.060.

If the applicant is an individual person making an original license application he shall pay an examination fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

If the applicant is applying for a debt adjusting agency license it shall furnish the director with complete forms of all contracts and assignments designed for execution by debtors making any assignments to or placing any property with the applicant for the purpose of paying the creditors of such debtors, and complete forms of all contracts and agreements designed for execution by creditors to whom payments are made by the applicant. Only such forms furnished the director and not disapproved by him shall be used by a debt adjusting agency licensee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 19. Section 28, chapter 16, Laws of 1923 as last amended by section 30, chapter 158, Laws of 1979 and RCW 18.29.020 are each amended to read as follows:

Any citizen of this state of good moral character who shall have attained the age of eighteen years may file his application for license as a dental hygienist in the manner provided by law on forms furnished by the director of licensing and shall submit with said application proof of said applicant's graduation from a training school for dental hygienists. Said application shall be signed and sworn to by said applicant. Each applicant shall pay a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 which shall accompany his application.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 20. Section 33, chapter 16, Laws of 1923 as last amended by section 25, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.29.040 are each amended to read as follows:

Applicants licensed as dental hygienists under the laws of other states whose requirements are equal to those of this state and who have been engaged in the lawful practice of dental hygiene for a period of not less than three years in such state may, upon the payment of a fee determined by the

director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, be granted licenses as dental hygienists in this state without examination: PROVIDED, HOWEVER, That the privileges of this section shall be extended only to those states which extend to this state the same privilege.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 21. Section 31, chapter 16, Laws of 1923 as last amended by section 4, chapter 277, Laws of 1981 and RCW 18.29.060 are each amended to read as follows:

Upon passing an examination as provided in RCW (~~(18.29.030)~~) 18.29.031 the director of licensing shall issue to the successful applicant a license as dental hygienist. The license shall be displayed in a conspicuous place in the operation room where such licensee shall practice.

EXPLANATORY NOTE: RCW 18.29.030 was repealed by 1983 c 168 § 15. The reference to this section has been amended to refer to a later enactment, RCW 18.29.031, that contains the substance of the repealed section.

Sec. 22. Section 32, chapter 16, Laws of 1923 as last amended by section 33, chapter 158, Laws of 1979 and RCW 18.29.070 are each amended to read as follows:

Every person licensed as a dental hygienist shall pay on or before the first day of October of each year after a license is issued to him a license renewal fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 and the license renewal certificate which shall be thereupon issued by the director of licensing shall be displayed with the license of said licensee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 23. Section 29, chapter 52, Laws of 1957 as last amended by section 27, chapter 30, Laws of 1975 1st ex sess. and RCW 18.32.110 are each amended to read as follows:

Except as otherwise provided in RCW 18.32.210, as now or hereafter amended each applicant shall pay a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, which shall accompany his application: PROVIDED, That applicants not licensed in another state and not residents of this state for at least six consecutive months shall pay an additional investigation fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW

43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 24. Section 5, chapter 93, Laws of 1953 as last amended by section 28, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.32.120 are each amended to read as follows:

When the application and the accompanying proof are found satisfactory, the director shall notify the applicant to appear before the board at a time and place to be fixed by the director, which time shall be not less than sixty days after the receipt of such application by the director.

Examination shall be made in writing in all theoretic subjects. Both theoretic and practical examinations shall be of a character to give a fair test of the qualifications of the applicant to practice dentistry or dental surgery.

The examination papers, and all grading thereon, and the grading of the practical work, shall be deemed public documents, and preserved for a period of not less than three years after the board has made and published its decisions thereon. All examinations shall be conducted by the board under fair and wholly impartial methods.

Any applicant who fails to make the required grade in his first examination is entitled to take as many subsequent examinations as he desires upon the prepayment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 for each subsequent examination. At least two examinations shall be given in each calendar year.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 25. Section 25, chapter 52, Laws of 1957 as amended by section 29, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.32.170 are each amended to read as follows:

A fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be charged for every duplicate license issued by the director.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 26. Section 24, chapter 112, Laws of 1935 as last amended by section 30, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.32.180 are each amended to read as follows:

Every person granted a license under this chapter shall pay to the director a license renewal fee determined by the director as provided in RCW

~~((43.24.085 as now or hereafter amended))~~ 43.24.086 for the year commencing with the first day of October next following the issuance of his license, and annually thereafter. Payment must be made within thirty days following the commencement of the year for which the same accrues. The license renewal certificate issued by the director shall be indispensable evidence that the same has been made.

The failure of any licensed dentist to pay his annual license renewal fee by the first day of November following the date on which the fee was due shall work a forfeiture of his license. It shall not be reinstated except upon written application and the payment of a penalty determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 27. Section 13, chapter 112, Laws of 1935 as last amended by section 32, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.32.210 are each amended to read as follows:

Any dentist who has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dentistry or dental surgery which in the opinion of the board is equal to that at the time maintained in this state, and who has been lawfully and continuously engaged in the practice of dentistry for five years or more immediately before filing his application to practice in this state and who shall deposit in person with the director a duly attested certificate from the examining board of the state or territory in which he is registered, certifying to the fact of his registration and of his being a person of good moral character and of professional attainments, may, upon the payment of a fee determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086 and after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dentistry in this state, without being required to take an examination in theory: PROVIDED, HOWEVER, That no license shall be issued to any such applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of dentistry within its own borders to dentists heretofore and hereafter licensed by this state, and removing to such other state: AND PROVIDED FURTHER, That the Washington state board of dental examiners shall have power to enter into reciprocal relations with similar boards of other states whose laws are practically identical with the provisions of this chapter.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 28. Section 15, chapter 112, Laws of 1935 as amended by section 33, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.32.225 are each amended to read as follows:

The fee for issuing a certificate to a legal practitioner of this state under RCW 18.32.220 shall be determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 and in each case the fee shall be paid to the director before the certificate shall be issued.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 29. Section 7, chapter 43, Laws of 1957 as last amended by section 34, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.34.070 are each amended to read as follows:

Any applicant for a license shall be examined if he pays an examination fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 and certifies under oath that:

- (1) He is eighteen years or more of age; and
- (2) He has graduated from an accredited high school; and
- (3) He is a citizen of the United States or has declared his intention of becoming such citizen in accordance with law; and
- (4) He is of good moral character; and
- (5) He has either:
 - (a) Had at least three years of apprenticeship training; or
 - (b) Successfully completed a prescribed course in opticianry in a college or university approved by the director; or
 - (c) Been principally engaged in practicing as a dispensing optician not in the state of Washington for five years.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 30. Section 4, chapter 106, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 39, Laws of 1983 and RCW 18.35.040 are each amended to read as follows:

An applicant for license shall be at least eighteen years of age and shall pay a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086. An applicant shall not be issued a license under the provisions of this chapter unless the applicant:

- (1) Satisfactorily completes the examination required by this chapter;
or
- (2) Holds a current, unsuspended, unrevoked license or certificate from a state or jurisdiction with which the department has entered into a reciprocal agreement, and shows evidence satisfactory to the department that the applicant is licensed in good standing in the other jurisdiction; and
- (3) Provides proof satisfactory to the department that the licensee has obtained the surety bond coverage required under this chapter.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 31. Section 6, chapter 106, Laws of 1973 1st ex. sess. as last amended by section 6, chapter 39, Laws of 1983 and RCW 18.35.060 are each amended to read as follows:

- (1) The department shall issue a trainee license to any applicant who has shown to the satisfaction of the department that:
- (a) The applicant is at least eighteen years of age;
- (b) If issued a trainee license, would be employed and directly supervised in the fitting and dispensing of hearing aids by a person licensed in good standing as a fitter-dispenser for at least one year unless otherwise approved by the council; and
- (c) Has paid an application fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, to the department.

The provisions of RCW 18.35.030 (~~and~~), 18.35.110 (~~(through 18.35.130)~~), and 18.35.120 shall apply to any person issued a trainee license. Pursuant to the provisions of this section, a person issued a trainee license may engage in the fitting and dispensing of hearing aids without having first passed the examination provided under this chapter.

(2) The trainee license shall contain the name of the person licensed under this chapter who is employing and supervising the trainee and that person shall execute an acknowledgment of responsibility for all acts of the trainee in connection with the fitting and dispensing of hearing aids.

(3) A trainee may fit and dispense hearing aids, but only if the trainee is under the direct supervision of a person licensed under this chapter in a capacity other than as a trainee. Direct supervision by a licensed fitter-dispenser shall be required whenever the trainee is engaged in the fitting or dispensing of hearing aids during the trainee's first three months of full-time employment. The council shall develop and adopt guidelines on any additional supervision or training it deems necessary.

(4) The trainee license shall expire one year from the date of its issuance except that on recommendation of the council the license may be reissued for one additional year only.

(5) No person licensed under this chapter may assume the responsibility for more than two trainees at any one time, except that the department may approve one additional trainee if none of the trainees is within the initial ninety-day period of direct supervision and the licensee demonstrates to the department's satisfaction that adequate supervision will be provided for all trainees.

EXPLANATORY NOTE: (1) RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

(2) RCW 18.35.130 was repealed by 1983 c 39 § 25. The reference to RCW 18.35.130 in this section has been amended to refer to the only remaining code section within the original reference.

Sec. 32. Section 8, chapter 106, Laws of 1973 1st ex. sess. as amended by section 38, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.35.080 are each amended to read as follows:

The department shall license each applicant, without discrimination, who satisfactorily completes the required examination and, upon payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 to the department, shall issue to the applicant a license. The license shall be effective until December 31st of the year in which it is issued.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 33. Section 9, chapter 106, Laws of 1973 1st ex. sess. as amended by section 7, chapter 39, Laws of 1983 and RCW 18.35.090 are each amended to read as follows:

Each person who engages in the fitting and dispensing of hearing aids shall annually, on the anniversary of his or her license, or as the department prescribes by rule, pay to the department a fee established by the director under RCW (~~43.24.085~~) 43.24.086 for a renewal of the license and shall keep the license conspicuously posted in the place of business at all times. A thirty-day grace period shall be allowed after the applicable renewal date during which licenses may be renewed on payment of a penalty fee established by the director under RCW (~~43.24.085~~) 43.24.086. Any person who fails to renew his or her license prior to the expiration of the grace period must satisfy the requirements of this chapter for initial licensure, including taking a new examination. The director may by rule establish mandatory continuing education requirements and/or continued competency standards to be met by licensees as a condition for license renewal.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 34. Section 3, chapter 36, Laws of 1919 as amended by section 39, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.36.040 are each amended to read as follows:

Only persons desiring to practice drugless therapeutics in this state shall apply to said director for a license and pay a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which sum in no case shall be refunded. If at a time appointed, or at the next regular examination, he or she shall prove he or she has completed a residence course of three entire sessions of thirty-six weeks each at a chartered drugless school, the entrance requirements of which was a high school education, or its equivalent and shall pass an examination in the following subjects, to wit: anatomy, physiology, hygiene, symptomatology, urinalysis, dietetics, hydrotherapy, radiography, electrotherapy, gynecology, obstetrics, psychology, mechanical and manual manipulation, they shall be granted a license by said director, or if the school attendance of said applicant was prior to the passage of RCW 18.36.010 through 18.36.165 a diploma from a chartered drugless school, the entrance requirements of which was a common school education or its equivalent, and two years continuous practice in this state shall suffice; or if the applicant has no diploma but has been in continuous practice in any of the drugless systems herein mentioned for the past four years, two years of which shall have been in continuous practice in one place in this state, he or she shall be allowed to practice: PROVIDED, said applicant shall take an examination on the following subjects: anatomy, physiology, hygiene, symptomatology, mechanical and manual manipulation. After such examination the director shall grant the applicant a license to practice drugless therapeutics in the state of Washington. The examinations shall be both scientific and practical and thoroughly test the fitness of the candidate. All answers to questions peculiar to any school of therapeutics shall be scrutinized and their sufficiency passed upon by the director, but the following subjects, to wit: anatomy, physiology, hygiene, urinalysis, and gynecology, shall be construed to be in common with all systems herein mentioned, and each candidate shall be examined in each of said subjects: PROVIDED, after 1921, the following subjects shall be construed as common to all systems, to wit: anatomy, physiology, hygiene, urinalysis, symptomatology, hydrotherapy, and gynecology. The director may refuse to grant a license to, or may revoke the license of any person guilty of unprofessional conduct, subject to the right of appeal within ninety days, to the superior court of the county where the board met when said license was refused, or revocation made. Any license granted without a full and fair compliance with the provisions of RCW 18.36.010 through 18.36.165 may be canceled in any action brought in the name of the state by the prosecuting attorney of the county where the examination was held, or said action may be brought by the attorney general; and if a license is denied an applicant shall have the right to petition the

superior court where said examination was held for an order compelling said board to issue said license.

Continuous practice as herein provided shall be construed to apply to drugless physicians who have actually been practicing in this state, even if they have not received a license under the present medical laws.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 35. Section 11, chapter 36, Laws of 1919 as amended by section 40, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.36.050 are each amended to read as follows:

The examination held by the director under RCW 18.36.010 through 18.36.165 shall be conducted in accordance with the following regulations:

(1) Each applicant is required to make an affidavit setting forth his age, place of residence, time and place of each course of lectures, or other work connected with his drugless education and the date of graduation, or length of time in practice. The affidavit must be corroborated by the exhibition of a certificate from the proper officers of the college, showing that the applicant had completed the prescribed course for graduation. No advance standing shall be recognized for work done at other than drugless colleges.

(2) A fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 must accompany the application. This fee is under no consideration to be returned, but if the applicant should fail to secure an average of sixty-five percent, and should be denied a license, such applicant shall, without paying a further fee and without losing his classification under the provisions of RCW 18.36.010 through 18.36.165, be permitted to take another examination any time within two years. Drugless practitioners who hold a diploma from a legally incorporated drugless school who have practiced in this state two years previous to the passing of RCW 18.36.010 through 18.36.165 and those having no diploma but who have been in continuous practice in this state for three years, shall be given a credit of fifteen percent on the general average.

(3) The examination shall be in charge of the director, and the papers of candidates shall be known by numbers which shall be arranged as follows: Envelopes shall be numbered and each containing a blank corresponding to the number, on which blank the applicant shall write his name and address, and return to the envelope, sealed by the applicant, and delivered to the director. Each candidate shall place on his paper the number given him and the year of graduation.

(4) The director shall examine the papers and place the mark opposite each candidate's number. When the markings are completed, the envelopes

containing the names are to be opened and the names placed opposite their respective numbers.

(5) No dishonest methods will be tolerated, and any candidate disregarding these rules shall be debarred from further examination.

(6) Each subject for examination shall be covered by ten questions, and two hours' time shall be allowed for each subject.

(7) No candidate shall be allowed to leave the examination room after the question papers have been distributed, until the questions are answered and delivered to the examiners in charge.

(8) All examinations shall be in English. Within twenty days after a license is granted or refused, the reasons shall be set forth in writing and placed with the papers used in the examination, and all of said examination papers shall be filed with the director within thirty days after said license has been granted or refused.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 36. Section 1, chapter 83, Laws of 1953 as last amended by section 41, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.36.115 are each amended to read as follows:

Every person heretofore or hereafter granted a license under this chapter shall pay to the director an annual license renewal fee to be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to register and pay the annual license renewal fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director, and payment to the state of a penalty fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, together with all delinquent annual license renewal fees.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 37. Section 6, chapter 108, Laws of 1937 as last amended by section 21, chapter 66, Laws of 1982 and RCW 18.39.050 are each amended to read as follows:

Every application for an initial license or a license renewal under this chapter shall be made in writing on a form prescribed by the director with such information as the director requires. The director shall set license fees in accordance with RCW (~~43.24.085 as now existing or hereafter amended~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now existing or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 38. Section 10, chapter 108, Laws of 1937 as last amended by section 7, chapter 43, Laws of 1981 and RCW 18.39.120 are each amended to read as follows:

Every person engaged in the business of funeral directing or embalming, who employs an apprentice to assist in the conduct of the business, shall register the name of each apprentice with the director at the beginning of the apprenticeship, and shall also forward notice of the termination of the apprenticeship. The registration shall be renewed annually and shall expire on the anniversary of the apprentice's birthdate. Fees determined under RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be paid for the initial registration of the apprentice, and for each annual renewal.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 39. Section 15, chapter 108, Laws of 1937 as last amended by section 22, chapter 66, Laws of 1982 and RCW 18.39.130 are each amended to read as follows:

The director may recognize licenses issued to funeral directors or embalmers from other states if the applicant's qualifications are comparable to the requirements of this chapter. Upon presentation of the license and payment by the holder of a fee determined under RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, the director may issue a funeral director's or embalmer's license under this chapter. The license may be renewed annually upon payment of the renewal license fee as herein provided by license holders residing in the state of Washington.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 40. Section 3, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.145 are each amended to read as follows:

The director shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at specific locations only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated locations for which the general establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director and as an embalmer, or employs at least one person with both such qualifications or one licensed funeral director and one embalmer who will be in service at each designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee therefor as fixed by the director pursuant to RCW (~~43.24.085~~) 43.24.086.

The director shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the director. No funeral establishment license shall be transferable, but an applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 41. Section 8, chapter 108, Laws of 1937 as last amended by section 10, chapter 43, Laws of 1981 and RCW 18.39.150 are each amended to read as follows:

Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 before the license may be issued. Applications under this section shall be made within one year after the expiration of the previous license. If the application is not made within three years, the applicant shall be required to take an examination or submit other satisfactory proof of continued competency approved by the director and pay the license fee, as required by this chapter in the case of initial applications, together with all unpaid license fees and penalties.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 42. Section 8, chapter 283, Laws of 1947 as amended by section 46, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.43.050 are each amended to read as follows:

Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his technical work and shall contain not less than five references, of whom three or more shall be engineers having personal knowledge of his engineering experience.

The registration fee for professional engineers shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which shall accompany the application. The director shall also determine a fee as provided in RCW (~~43.24.085 as now or hereafter~~

~~amended~~) 43.24.086 to be paid upon issuance of the certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. When registration as a professional engineer is completed by an engineer-in-training an additional fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be paid before issuance of certificate as professional engineer.

The registration fee for land surveyors shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The registration fee for professional engineers also qualified as land surveyors shall be the same as for professional engineers.

Should the board deny the issuance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an application fee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 43. Section 4, chapter 260, Laws of 1981 and RCW 18.43.080 are each amended to read as follows:

Certificates of registration, and certificates of authorization and renewals thereof shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the administrator of the division of professional licensing to notify every person, firm or corporation registered under this chapter, of the date of the expiration of his certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 44. Section 13, chapter 283, Laws of 1947 as last amended by section 48, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.43.100 are each amended to read as follows:

The board may, upon application therefor, and the payment of a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 issue a certificate without further examination as a professional engineer or land surveyor to any person who holds a certificate of qualification of registration issued to him following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, provided: (1) That the applicant's qualifications meet the requirements of the chapter, and the rules established by the board, (2) that the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country; and (3) that the said state, territory, possession, district, or foreign country gives like consideration on a reciprocal basis to those persons who have been registered by examination in this state.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 45. Section 14, chapter 283, Laws of 1947 as last amended by section 1, chapter 37, Laws of 1982 and RCW 18.43.110 are each amended to read as follows:

The board shall have the exclusive power to fine and reprimand the registrant and suspend or revoke the certificate of registration of any registrant who is found guilty of:

The practice of any fraud or deceit in obtaining a certificate of registration; or

Any gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered engineer or land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred. All procedures related to hearings on such charges shall be in accordance with rules for a contested case, chapter 34.04 RCW, the Administrative Procedure Act.

If, after such hearing, a majority of the board vote in favor of finding the accused guilty, the board shall revoke or suspend the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended,

providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the superior court of the county in which such person resides, and after full hearing, said court shall make such decree sustaining or revoking the action of the board as it may deem just and proper.

Fines imposed by the board shall not exceed one thousand dollars for each offense.

In addition to the imposition of civil penalties under this section, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 46. Section 16, chapter 283, Laws of 1947 as last amended by section 50, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.43.130 are each amended to read as follows:

This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or
 (2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter; or

(3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: PROVIDED, That such person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: PROVIDED, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for said government; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering in this state by a corporation or joint stock association: PROVIDED, That

(a) Such corporation shall file with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with the provisions of this chapter to practice engineering in this state;

(b) Such corporation shall file with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by said corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of said corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in said resolution: PROVIDED, That the filing of such resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) Such corporation shall file with the board a designation in writing setting forth the name or names of a person or persons holding certificates of registration under this chapter who shall be in responsible charge of each project and each major branch of the engineering activities in which the corporation shall specialize in this state. In the event there shall be a change in the person or persons in responsible charge of any project or major branch of the engineering activities, such changes shall be designated in

writing and filed with the board within thirty days after the effective date of such changes;

(d) Upon the filing with the board of the application for certificate for authorization, certified copy of resolution, affidavit and designation of persons specified in subparagraphs (a), (b), and (c) of this section the board shall issue to such corporation a certificate of authorization to practice engineering in this state upon a determination by the board (1) that:

(i) The bylaws of the corporation contain provisions that all engineering decisions pertaining to any project or engineering activities in this state shall be made by the specified engineer in responsible charge, or other responsible engineers under his direction or supervision;

(ii) The application for certificate of authorization states the type, or types, of engineering practiced, or to be practiced by such corporation;

(iii) A current certified financial statement accurately reflecting the financial condition of the corporation has been filed with the board and is available for public inspection;

(iv) The applicant corporation has the ability to provide through qualified engineering personnel, professional services or creative work requiring engineering experience, and that with respect to the engineering services which the corporation undertakes or offers to undertake such personnel have the ability to apply special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects;

(v) The application for certificate of authorization states the professional records of the designated person or persons who shall be in responsible charge of each project and each major branch of engineering activities in which the corporation shall specialize;

(vi) The application for certificate of authorization states the experience of the corporation, if any, in furnishing engineering services during the preceding five year period and states the experience of the corporation, if any, in the furnishing of all feasibility and advisory studies made within the state of Washington;

(vii) The applicant corporation meets such other requirements related to professional competence in the furnishing of engineering services as may be established and promulgated by the board in furtherance of the objectives and provisions of this chapter; and

(2) Upon a determination by the board based upon an evaluation of the foregoing findings and information that the applicant corporation is possessed of the ability and competence to furnish engineering services in the public interest.

The board may in the exercise of its discretion refuse to issue or may suspend and/or revoke a certificate of authorization to a corporation where the board shall find that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has committed misconduct or malpractice as defined in RCW 18.43.105 or has been found personally responsible for misconduct or malpractice under the provisions of subsections (f) and (g) hereof.

The certificate of authorization shall specify the major branches of engineering of which the corporation has designated a person or persons in responsible charge as provided in subsection (8) (c) of this section.

(e) In the event a corporation, organized solely by a group of engineers, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to such corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in this subsection. In the event the ownership of such corporation shall be altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners, if exclusively engineers or, otherwise, under the qualifications required by subparagraphs (a), (b), (c), and (d) hereof.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without misconduct or malpractice in the practice of engineering as defined in this chapter.

(g) Any corporation which has been duly certified under the provisions of this chapter and has engaged in the practice of engineering shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board shall find that the corporation has committed misconduct or malpractice as defined in RCW 18.43.105. In such case any individual engineer holding a certificate of registration under this chapter, involved in such malpractice or misconduct, shall have his certificate of registration suspended or revoked also.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the responsible charge of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under the provisions of this subsection (8) of this section there shall be paid an initial fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 and an annual renewal fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

(9) The practice of engineering and/or land surveying in this state by partnership: PROVIDED, That

(a) A majority of the members of the partnership are engineers or architects or land surveyors duly certificated by the state of Washington or by a state, territory, possession, district, or foreign country meeting the reciprocal provisions of RCW 18.43.100: PROVIDED, That at least one of the members is a professional engineer or land surveyor holding a certificate issued by the director under the provisions of RCW 18.43.070; and

(b) Except where all members of the partnership are professional engineers or land surveyors or a combination of professional engineers and land surveyors or where all members of the partnership are either professional engineers or land surveyors in combination with an architect or architects all of which are holding certificates of qualification therefor issued under the laws of the state of Washington, the partnership shall file with the board an instrument executed by a partner on behalf of the partnership designating the persons responsible for the practice of engineering by the partnership in this state and in all other respects such person so designated and such partnership shall meet the same qualifications and shall be subject to the same requirements and the same penalties as those pertaining to corporations and to the responsible persons designated by corporations as provided in subsection (8) of this section.

For each certificate of authorization issued under the provisions of this subsection (9) of this section there shall be paid an initial fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 and an annual renewal fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 47. Section 1, chapter 153, Laws of 1965 as last amended by section 42, chapter 158, Laws of 1979 and RCW 18.44.010 are each amended to read as follows:

Unless the context otherwise requires terms used in this chapter shall have the following meanings:

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing, or his duly authorized representative.

(3) "Escrow" means any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by

such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

(4) "Escrow agent" means any sole proprietorship, firm, association, partnership, or corporation engaged in the business of performing for compensation the duties of the third person referred to in RCW 18.44.010(3) above.

(5) "Certificated escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a certificate of registration as an escrow agent under the provisions of this chapter.

(6) "Person" unless a different meaning appears from the context, includes an individual, a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

(7) "Escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(8) "Escrow commission" means the escrow commission of the state of Washington created by RCW (~~(18.44.210)~~) 18.44.208.

(9) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee.

EXPLANATORY NOTE: RCW 18.44.210 was repealed by 1983 1st ex.s. c 27 § 15. The reference to this section has been amended to refer to a later enactment, RCW 18.44.208, that contains the substance of the repealed section.

Sec. 48. Section 3, chapter 160, Laws of 1917 as amended by section 51, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.50.050 are each amended to read as follows:

If the application is approved and the candidate shall have deposited an examination fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 with the director, the candidate shall be admitted to the examination, and in case of failure to pass the examination, may be reexamined at any regular examination within one year without the payment of an additional fee, said fee to be retained by the director after failure to pass the second examination.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 49. Section 13, chapter 53, Laws of 1981 and RCW 18.50.102 are each amended to read as follows:

Every person licensed to practice midwifery shall register with the director of licensing annually and pay an annual renewal registration fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 on or before the licensee's birth anniversary date. The license of the person shall be renewed for a period of one year. Any failure to register and pay the annual renewal registration fee shall render the license invalid. The license shall be reinstated upon written application to the director, payment to the state of a penalty fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, and payment to the state of all delinquent annual license renewal fees. Any person who fails to renew his or her license for a period of three years shall not be entitled to renew such license under this section. Such person, in order to obtain a license to practice midwifery in this state, shall file a new application under this chapter, along with the required fee. The director, in the director's discretion, may permit the applicant to be licensed without examination if satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of midwifery.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 50. Section 13, chapter 57, Laws of 1970 ex. sess. as amended by section 55, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.52.130 are each amended to read as follows:

Upon receipt of an application fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 and an annual license fee, the director may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction: PROVIDED, That the board finds that the standards for licensing in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified. In the event that there is developed a nationally recognized standard for the licensing of nursing home administrators which is in fact utilized in licensing procedures on a reasonably uniform basis the board may by rule or regulation provide for granting reciprocal licensing on a showing of compliance with such standard.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 51. Section 13, chapter 144, Laws of 1919 as last amended by section 8, chapter 168, Laws of 1983 and RCW 18.53.050 are each amended to read as follows:

Every registered optometrist shall annually or on the date specified by the director pay to the state treasurer a renewal fee, to be determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, and failure to pay such fee within the prescribed time shall cause the suspension of his or her certificate.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 52. Section 5, chapter 260, Laws of 1981 and RCW 18.53.070 are each amended to read as follows:

The fees for application for examination and for issuing a certificate of registration shall be determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, which shall be paid to the director as he shall prescribe.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 53. Section 4, chapter 101, Laws of 1980 and RCW 18.55.040 are each amended to read as follows:

(1) No applicant for a license shall be registered under this chapter until the applicant pays an examination fee as shall be determined by the director as provided in RCW (~~(43.24.085)~~) 43.24.086, and certifies under oath that the applicant:

- (a) Is eighteen years or more of age;
- (b) Has graduated from high school;
- (c) Is of good moral character; and
- (d) Has either:
 - (i) Had at least five years of apprenticeship training under a licensed ocularist in the state of Washington; or
 - (ii) Successfully completed a prescribed course in ocularist training programs in a college, teaching facility, or university approved by the director; or
 - (iii) Been principally engaged in practicing as an ocularist outside the state of Washington for eight years and shall have been employed by a licensed ocularist or physician for one year in the state of Washington; and
 - (iv) Successfully passes with a grade of at least seventy-five percent, an examination, conducted by the director, which shall determine whether the applicant has a thorough knowledge of the principles governing the practice of an ocularist.

(2) The director shall issue a license without examination to any person who makes application therefor within six months after June 12, 1980, pays

a fee as determined by the director, and certifies under oath that the applicant has been actually and principally engaged in the practice of an ocularist in the state of Washington for a period of not less than five years immediately preceding June 12, 1980.

(3) Any person who on June 12, 1980 (a) is employed as apprentice by a person who is principally engaged in the practice of an ocularist, (b) registers with the director prior to one hundred twenty days after June 12, 1980, and (c) furnishes the director a statement, under oath, and certified as correct by the employer, as to the length of time of such employment shall be given credit for such period towards compliance with the requirement for five years' apprenticeship.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 54. Section 7, chapter 101, Laws of 1980 and RCW 18.55.050 are each amended to read as follows:

Every licensee under this chapter shall pay an annual renewal registration fee determined by the director, as provided by RCW ((43.24.085)) 43.24.086, on or before the 1st day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. An application for renewal shall be on the form provided by the director and shall be filed with the department of licensing not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as shall be determined by the director. Any license not renewed as provided in this section shall render the license invalid but such licensee shall be reinstated upon written application therefore to the director and payment of a renewal fee to the director as provided in RCW ((43.24.085)) 43.24.086, together with all delinquent annual renewal license fees.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 55. Section 6, chapter 4, Laws of 1919 as last amended by section 12, chapter 117, Laws of 1979 and RCW 18.57.050 are each amended to read as follows:

Each applicant on making application shall pay the director a fee determined by the director as provided in RCW ((43.24.085 as now or hereafter amended)) 43.24.086 which shall be paid to the state treasurer by said director and used to defray the expenses and compensation of said director. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of fifteen dollars shall be returned. All persons licensed to practice osteopathy or osteopathic medicine and surgery within this state who are engaged in active practice shall pay on or before the first day of May of each year to the director a renewal license fee determined by the director as provided in RCW ((43.24.085 as now or

~~hereafter amended~~) 43.24.086. The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. Licenses not so renewed will not be valid. The director shall thirty days or more before May 1st of each year mail to all active practitioners of osteopathy or osteopathic medicine and surgery in this state at their last known address a notice of the fact that the renewal fee will be due on or before the first of May. Nothing in this chapter shall be construed so as to require that the receipt shall be recorded as original licenses are required to be recorded.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 56. Section 17, chapter 4, Laws of 1919 as last amended by section 15, chapter 117, Laws of 1979 and RCW 18.57.130 are each amended to read as follows:

Any person who meets the requirements of RCW 18.57.020 as now or hereafter amended and has been examined and licensed to practice osteopathic medicine and surgery by a state board of examiners of another state or the duly constituted authorities of another state authorized to issue licenses to practice osteopathic medicine and surgery upon examination, shall upon approval of the board be entitled to receive a license to practice osteopathic medicine and surgery in this state upon the payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 to the state treasurer and filing a copy of his license in such other state, duly certified by the authorities granting the license to be a full, true, and correct copy thereof, and certifying also that the standard of requirements adopted by such authorities as provided by the law of such state is equal to that provided for by the provisions of this chapter: PROVIDED, That no license shall issue without examination to any person who has previously failed in an examination held in this state: PROVIDED, FURTHER, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this chapter: PROVIDED, FURTHER, That no one shall be permitted to practice surgery under this chapter who has not a license to practice osteopathic medicine and surgery.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 57. Section 10, chapter 30, Laws of 1971 ex. sess. as amended by section 60, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57A.040 are each amended to read as follows:

No osteopathic physician practicing in this state shall utilize the services of an osteopathic physician's assistant without the approval of the board.

Any osteopathic physician licensed in this state may apply to the board for permission to use the services of an osteopathic physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the osteopathic physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the osteopathic physician's assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. Whenever it appears to the board that an osteopathic physician's assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with RCW 18.57.180.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 58. Section 12, chapter 9, Laws of 1984 and RCW 18.59.110 are each amended to read as follows:

The director shall prescribe and publish fees in amounts determined by the director as provided in RCW (~~43.24.085~~) 43.24.086 for the following purposes:

- (1) Application for examination;
- (2) Initial license fee;
- (3) Renewal of license fee;
- (4) Late renewal fee; and
- (5) Limited permit fee.

The fees shall be set in such an amount as to reimburse the state, to the extent feasible, for the cost of the services rendered.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 59. Section 1, chapter 82, Laws of 1969 ex. sess. as amended by section 4, chapter 90, Laws of 1979 and RCW 18.64.009 are each amended to read as follows:

Employees of the Washington state board of pharmacy, who are designated by the board as enforcement officers, are declared to be peace officers and shall be vested with police powers to enforce chapters 18.64, ~~((18.81,))~~ 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws administered by the board.

EXPLANATORY NOTE: Chapter 18.81 RCW was repealed by 1984 c 153 § 22. The reference to this chapter has been deleted.

Sec. 60. Section 10, chapter 213, Laws of 1909 as last amended by section 12, chapter 153, Laws of 1984 and RCW 18.64.160 are each amended to read as follows:

The board of pharmacy shall have the power to refuse, suspend, or revoke the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) He or she has been convicted of a felony relating to his or her practice as a pharmacist;

(3) He or she has committed any act involving moral turpitude, dishonesty, or corruption, if the act committed directly relates to the pharmacist's fitness to practice pharmacy. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent pharmacist of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based;

(4) He or she is unfit to practice pharmacy because of habitual intemperance in the use of alcoholic beverages, drugs, controlled substances, or any other substance which impairs the performance of professional duties;

(5) He or she exhibits behavior which may be due to physical or mental impairment, which creates an undue risk of causing harm to him or herself or to other persons when acting as a licensed pharmacist or intern;

(6) He or she has incompetently or negligently practiced pharmacy, creating an unreasonable risk of harm to any individual;

(7) His or her legal authority to practice pharmacy, issued by any other properly constituted licensing authority of any other state, has been and is currently suspended or revoked;

(8) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the board upon the entry of the judgment, regardless of the pendency of an appeal;

(9) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, ~~((chapter 18.81 RCW,))~~ Title 69 RCW, or rule or regulation of the board;

(10) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(11) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: PROVIDED, HOWEVER, That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices.

In any case of the refusal, suspension, or revocation of a license by said board of pharmacy under the provisions of this chapter, said board shall proceed in accordance with chapter 34.04 RCW.

EXPLANATORY NOTE: Chapter 18.81 RCW was repealed by 1984 c 153 § 22. The reference to this chapter has been deleted.

Sec. 61. Section 4, chapter 30, Laws of 1971 ex. sess. as last amended by section 64, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.71A.040 are each amended to read as follows:

No physician practicing in this state shall utilize the services of a physician's assistant without the approval of the board.

Any physician licensed in this state may apply to the board for permission to use the services of a physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the physician's assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. Whenever it appears to the board that a physician's assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with RCW 18.71.140.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 62. Section 1, chapter 71, Laws of 1983 and RCW 18.72.380 are each amended to read as follows:

There is hereby levied to be collected by the department of licensing from every physician and surgeon licensed pursuant to chapter 18.71 RCW an annual medical disciplinary assessment equal to the license renewal fee established under RCW (~~(43.24.085)~~) 43.24.086. The assessment levied pursuant to this subsection is in addition to any license renewal fee established under RCW (~~(43.24.085)~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 63. Section 5, chapter 239, Laws of 1949 as last amended by section 9, chapter 116, Laws of 1983 and RCW 18.74.050 are each amended to read as follows:

The director shall furnish a license upon the authority of the board to any person who applies and who has qualified under the provisions of this chapter. At the time of applying, the applicant shall pay to the state treasurer a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, provided no person registered or licensed on July 24, 1983, as a physical therapist shall be required to pay an additional fee for a license under this chapter.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 64. Section 6, chapter 239, Laws of 1949 as last amended by section 10, chapter 116, Laws of 1983 and RCW 18.74.060 are each amended to read as follows:

Upon the recommendation of the board, the director shall license as a physical therapist and shall furnish a license to any person who is a physical therapist registered or licensed under the laws of another state or territory, or the District of Columbia, if the qualifications for such registration or license required of the applicant were substantially equal to the requirements under this chapter. At the time of making application, the applicant shall pay to the state treasurer a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 65. Section 9, chapter 222, Laws of 1949 as last amended by section 65, chapter 158, Laws of 1979 and RCW 18.78.080 are each amended to read as follows:

All applicants applying for a license to practice as a licensed practical nurse with or without examination, as provided in this chapter, shall pay a license fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 to the department of licensing; PROVIDED, HOWEVER, That the applicant applying for a reexamination shall pay a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 66. Section 10, chapter 222, Laws of 1949 as last amended by section 10, chapter 55, Laws of 1983 and RCW 18.78.090 are each amended to read as follows:

Every licensed practical nurse in this state shall renew the license with the department of licensing and shall pay a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086. Any failure to register and pay the renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application herefor and upon payment to the state of a penalty fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, together with all delinquent license renewal fees.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 67. Section 22, chapter 70, Laws of 1965 as amended by section 75, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.105 are each amended to read as follows:

The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of Doctor of Philosophy or its equivalent in psychology from an accredited educational institution. These certificates of qualification certify that the holder has been examined by the board and is deemed competent to perform certain functions within the practice of psychology under the periodic direct supervision of a psychologist licensed by the board. Such functions will be specified on the certificate issued by the board. Such applicant shall pay to the board of examiners a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086 for certification in a single area of qualification and a fee for amendment of the certificate to include each additional area of qualification. Upon petition by a holder the board of examiners may grant authority to function without immediate supervision.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 68. Section 16, chapter 202, Laws of 1949 as last amended by section 77, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.88.160 are each amended to read as follows:

Each applicant for a license to practice as a registered nurse or a specialized or advanced registered nurse shall pay a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 to the state treasurer.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 69. Section 19, chapter 202, Laws of 1949 as last amended by section 1, chapter 106, Laws of 1979 ex. sess. and RCW 18.88.190 are each amended to read as follows:

Every license issued under the provisions of this chapter shall be renewed, except as hereinafter provided. The board shall by regulation establish requirements of continuing nursing education as a condition of license renewal: PROVIDED, That membership in an organization shall not be a prerequisite or condition to the fulfillment of any continuous education requirement established as provided herein: PROVIDED FURTHER, That the board shall validate all educational programs established as provided herein. At least thirty days prior to expiration, the director shall mail a notice for renewal of license to every person licensed for the current licensing period. The applicant shall return the notice to the department with a renewal fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 before the expiration date. Upon receipt of the notice and appropriate fee, and if requirements for continuing nursing education have been met, the department shall issue to the applicant a license which shall render the holder thereof a legal practitioner of nursing for the period stated on the license: PROVIDED, That the requirement of continuing nursing education may for good cause shown be waived by the board. The department's costs for nurses' continuing education shall be borne from licensure fees: PROVIDED FURTHER, That the power of the board to establish continuing nursing education requirements as a condition of license renewal shall terminate on January 1, 1986, unless extended by law for an additional fixed period of time.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 70. Section 20, chapter 202, Laws of 1949 as last amended by section 79, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.88.200 are each amended to read as follows:

Any licensee who allows his or her license to lapse by failing to renew the license, shall upon application for renewal pay a penalty determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086. If the applicant fails to renew the license before the end of the current licensing period, the license shall be issued for the next licensing period by the department upon written application and fee determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 71. Section 10, chapter 71, Laws of 1941 as last amended by section 82, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.92.115 are each amended to read as follows:

Any applicant who shall fail to secure the required grade in his first examination may take the next regular veterinary examination. The fee for reexamination shall be determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 72. Section 16, chapter 71, Laws of 1941 as amended by section 6, chapter 102, Laws of 1983 and RCW 18.92.140 are each amended to read as follows:

Each person now qualified to practice veterinary medicine, surgery and dentistry or registered as an animal technician in this state or who shall hereafter be licensed or registered to engage in such practice, shall register with the director of licensing annually or on the date prescribed by the director and pay the renewal registration fee set by the director as provided in RCW (~~((43.24.085))~~) 43.24.086. A person who fails to renew a license or certificate prior to its expiration shall be subject to a late renewal fee equal to one-third of the regular renewal fee set by the director.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section.

Sec. 73. Section 19, chapter 71, Laws of 1941 as last amended by section 7, chapter 102, Laws of 1983 and RCW 18.92.145 are each amended to read as follows:

The director shall determine the fees, as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, for the issuance, renewal, or administration of the following licenses, certificates of registration, permits, duplicate licenses, renewals, or examination:

- (1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;
- (2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;
- (3) For a certificate of registration as an animal technician;
- (4) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 74. Section 8, chapter 158, Laws of 1969 ex. sess. as amended by section 85, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.96.080 are each amended to read as follows:

Application for registration shall be filed with the director prior to the date set for examination and shall contain statements made under oath showing the applicant's education and a detailed summary of his practical experience, and shall contain not less than five references, of whom three or more shall be landscape architects having personal knowledge of his landscape architectural experience.

The application fee shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 and shall include a nonrefundable examination fee, and a fee for issuance of the certificate.

The application fee for reexamination shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 and shall include, and must be filed with the director not less than six days prior to the date set for examination.

At any time within the first two years following August 11, 1969, the board shall certify for registration, without examination, any applicant who submits proof that he has had at least a combination of education and experience substantially equivalent to six years of practice in landscape architecture prior to August 11, 1969.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 75. Section 10, chapter 158, Laws of 1969 ex. sess. as amended by section 86, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.96.100 are each amended to read as follows:

The director may, upon payment of a filing and investigation fee including the current registration fee in an amount as determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086, grant a certificate of registration without examination to any applicant who is a registered landscape architect in any other state or country whose requirements for registration are at least substantially equivalent to the requirements of this state for registration by examination, and which extends the same privileges of reciprocity to landscape architects registered in this state.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 76. Section 11, chapter 158, Laws of 1969 ex. sess. as amended by section 87, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.96.110 are each amended to read as follows:

Certificates of registration shall expire on the last day of June following their issuance or renewal. The director shall set the yearly fee for renewal which shall be determined as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086. Renewal may be effected during the month of June by payment to the director of the required fee.

In case any registrant fails to pay the renewal fee before thirty days after the due date, the renewal fee shall be the current fee plus an amount equal to one year's fee at the discretion of the board: PROVIDED, That any registrant in good standing, upon fully retiring from landscape architectural practice, may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current annual renewal fee. Any registrant, other than a properly withdrawn licensee, who fails to renew his registration for a period of one year may reinstate only on reexamination as is required for new registrants.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 77. Section 14, chapter 158, Laws of 1969 ex. sess. as amended by section 88, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.96.140 are each amended to read as follows:

Upon the recommendations of the board, the director may restore a license to any person whose license has been suspended or revoked. Application for the reissuance of a license shall be made in such a manner as indicated by the board.

A new certificate of registration to replace any certificate lost or destroyed, or mutilated may be issued by the director, and a charge determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be made for such issuance.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 78. Section 9, chapter 175, Laws of 1973 1st ex. sess. as amended by section 8, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.090 are each amended to read as follows:

The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever a plumber coming into the state of Washington from another state requests the department for a temporary permit to engage in the trade of plumbing as a journeyman plumber or as a specialty plumber during the period of time between filing of an application for a certificate as provided in RCW 18.106.030 as now or hereafter amended and taking the examination provided for in RCW 18.106.050 (~~and 18.106.060 as now or hereafter amended~~): PROVIDED, That no temporary permit shall be issued to:

- (1) Any person who has failed to pass the examination for a certificate of competency;
- (2) Any applicant under this section who has not furnished the department with such evidence required under RCW 18.106.030;
- (3) To any apprentice plumber.

EXPLANATORY NOTE: RCW 18.106.060 was repealed by 1983 c 124 § 19. The reference to this section has been deleted. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 79. Section 6, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.060 are each amended to read as follows:

All licenses issued under the provisions of this chapter, unless otherwise provided shall expire on the annual anniversary date of the individual's date of birth.

Failure to pay the annual license renewal fee by the dates specified above shall render the license invalid, but such license may be reinstated upon written application therefor to the director, and payment to the state of a penalty of ten dollars together with all delinquent annual license renewal fees.

The director shall prorate the licensing fee for massage operator based on one-twelfth of the annual license fee for each full calendar month between the issue date and the next anniversary of the applicant's birth date, a date used as the expiration date of such license.

Every applicant for a license shall pay an examination fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which fee shall accompany their application.

Applicants granted a license under this chapter shall pay to the director a license fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, prior to the issuance of their license, and an annual renewal fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 80. Section 17, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.160 are each amended to read as follows:

The fee for application for, and renewal of a massage business license shall be determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086: PROVIDED, That only one fee shall be required where an applicant applies for both a license to practice massage and for a business license.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 81. Section 5, chapter 253, Laws of 1971 ex. sess. as amended by section 90, chapter 30, Laws of 1975 1st ex. sess. and RCW 19.16.140 are each amended to read as follows:

Each applicant when submitting his application shall pay a licensing fee and an investigation fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. If a license is not issued in response to the application, the license fee shall be returned to the applicant.

An annual license fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be paid to the director on or before January first of each year. If the annual license fee is not paid on or before January first, the licensee shall be assessed a penalty for late payment in an amount determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. If the fee and

penalty are not paid by January thirty-first, it will be necessary for the licensee to submit a new application for a license: PROVIDED, That no license shall be issued upon such new application unless and until all fees and penalties previously accrued under this section have been paid.

Any license or branch office certificate issued under the provisions of this chapter shall expire on December thirty-first following the issuance thereof.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 82. Section 6, chapter 253, Laws of 1971 ex. sess. as amended by section 91 chapter 30, Laws of 1975 1st ex. sess. and RCW 19.16.150 are each amended to read as follows:

If a licensee maintains a branch office, he or it shall not operate a collection agency business in such branch office until he or it has secured a branch office certificate therefor from the director. A licensee, so long as his or its license is in full force and effect and in good standing, shall be entitled to branch office certificates for any branch office operated by such licensee upon payment of the fee therefor provided in this chapter.

Each licensee when applying for a branch office certificate shall pay a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086. An annual fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 for a branch office certificate shall be paid to the director on or before January first of each year. If the annual fee is not paid on or before January first, a penalty for late payment in an amount determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall be assessed. If the fee and the penalty are not paid by January thirty-first, it will be necessary for the licensee to apply for a new branch office certificate: PROVIDED, That no such new branch office certificate shall be issued unless and until all fees and penalties previously accrued under this section have been paid.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 83. Section 4, chapter 228, Laws of 1969 ex. sess. as amended by section 2, chapter 51, Laws of 1977 ex. sess. and RCW 19.31.040 are each amended to read as follows:

An employment agency shall provide each applicant with a copy of the contract between the applicant and employment agency which shall have printed on it or attached to it a copy of RCW 19.31.170 as now or hereafter amended. Such contract shall contain the following:

(1) The name, address, and telephone number of the employment agency;

(2) Trade name if any;

(3) The date of the contract;

(4) The name of the applicant;

(5) The amount of the fee to be charged the applicant, or the method of computation of the fee, and the time and method of payments: PROVIDED, HOWEVER, That if the provisions of the contract come within the definition of a "retail installment transaction", as defined in RCW (~~63.14.010(5) as now or hereafter amended~~) 63.14.010, the contract shall conform to the requirements of chapter 63.14 RCW, as now or hereafter amended;

(6) A notice in eight-point bold face type or larger directly above the space reserved in the contract for the signature of the buyer. The caption, "NOTICE TO APPLICANT—READ BEFORE SIGNING" shall precede the body of the notice and shall be in ten-point bold face type or larger. The notice shall read as follows:

"This is a contract. If you accept employment with any employer through [name of employment agency] you will be liable for the payment of the fee as set out above. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it."

EXPLANATORY NOTE: An amendment to RCW 63.14.010 by 1984 c 280 § 1 renumbered subsection (5) of that section. To avoid ambiguity, the subsection reference has been deleted. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 84. Section 14, chapter 228, Laws of 1969 ex. sess. as amended by section 92, chapter 30, Laws of 1975 1st ex. sess. and RCW 19.31.140 are each amended to read as follows:

The director shall determine the fees, as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, charged to those parties licensed as employment agencies for original applications, renewal per year, branch license, both original and renewal, transfer of license, and approval of amended or new contracts and/or fee schedules.

EXPLANATORY NOTE: RCW 43.24.085 was repealed by 1983 c 168 § 13. The reference to this section has been amended to refer to a later enactment, RCW 43.24.086, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 85. Section 107, chapter 53, Laws of 1965 and RCW 23A.28.240 are each amended to read as follows:

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to

cash and deposited with the state treasurer and shall be paid over to such creditor or shareholder or to his legal representative upon proof satisfactory to the state treasurer of his right thereto. Said assets shall be handled and disbursed as provided in chapter (~~(63-28)~~) 63.29 RCW.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter.

Sec. 86. Section 4, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.030 are each amended to read as follows:

The parent and child relationship between a child and

- (1) the natural mother may be established by proof of her having given birth to the child, or under this chapter;
- (2) the natural father may be established under this chapter;
- (3) an adoptive parent may be established by proof of adoption or under the provisions of chapter (~~(26-32)~~) 26.33 RCW.

EXPLANATORY NOTE: Chapter 26.32 RCW was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this chapter has been amended to refer to a later enactment, chapter 26.33 RCW, that contains the substance of the repealed chapter.

Sec. 87. Section 20, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.190 are each amended to read as follows:

If a parent relinquishes or proposes to relinquish for adoption a child, the other parent shall be given notice of the adoption proceeding and have the rights provided under the provisions of chapter (~~(26-32)~~) 26.33 RCW.

EXPLANATORY NOTE: Chapter 26.32 RCW was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this chapter has been amended to refer to a later enactment, chapter 26.33 RCW, that contains the substance of the repealed chapter.

Sec. 88. Section 2, chapter 24, Laws of 1971 as amended by section 1, chapter 171, Laws of 1974 ex. sess. and RCW 28A.24.172 are each amended to read as follows:

Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.24.170, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of emergency (~~(services)~~) management or any of his agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as (~~the~~) need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto.

EXPLANATORY NOTE: The director of emergency services was redesignated the director of emergency management by 1984 c 38 § 4; see RCW 38.52.030.

Sec. 89. Section 13, chapter 154, Laws of 1980 and RCW 28A.41.143 are each amended to read as follows:

The board of directors of a school district may, by properly executed resolution, request that the superintendent of public instruction direct a portion of the district's basic education allocation be credited to the district's ((building)) capital projects fund and/or bond redemption fund. Moneys so credited shall be used solely for school building purposes.

EXPLANATORY NOTE: The building fund was redesignated the capital projects fund by 1983 c 59 § 13; see RCW 28A.58.441.

Sec. 90. Section 28A.52.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.52.070 are each amended to read as follows:

When authorized to issue bonds, as provided in this chapter the board of directors shall immediately cause to be sent to the appropriate county treasurer, notice thereof. The county officials charged by law with the duty of levying taxes for the payment of said bonds and interest shall do so as provided in RCW ((39.44.020)) 39.46.110.

The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual expenditure in excess of the annual revenue of such district, in addition to any other penalties, whether civil or criminal, as provided by law, shall be deemed to be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars.

EXPLANATORY NOTE: RCW 39.44.020 was repealed by 1984 c 186 § 70. The reference to this section has been amended to refer to a later enactment, RCW 39.46.110, that contains the substance of the repealed section.

Sec. 91. Section 28A.56.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.56.020 are each amended to read as follows:

The said county committee shall give consideration to:

- (1) The report submitted by the board of directors as stated above;
- (2) The exclusion from the plan of nonhigh school districts because of remoteness or isolation or because they are so situated with respect to location, present and/or clearly foreseeable future population, and other pertinent factors as to warrant the establishment of a high school therein within a period of two years or the inclusion of their territory in some other non-high school district within which the establishment of a high school within a period of two years is warranted;

- (3) The assessed valuation of the school districts involved;

- (4) The cash balance, if any, in the ((building)) capital projects fund of the district submitting the request which is designated for high school building construction purposes, together with the sources of such balance; and

(5) Any other factors found by the committee to have a bearing on the preparation of an equitable plan.

EXPLANATORY NOTE: The building fund was redesignated the capital projects fund by 1983 c 59 § 13; see RCW 28A.58.441.

Sec. 92. Section 28A.56.050, chapter 223, Laws of 1969 ex. sess. as last amended by section 76, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.56.050 are each amended to read as follows:

Within sixty days after receipt of the notice of approval from the educational service district superintendent, the board of directors of each school district included in the plan shall submit to the voters thereof a proposal or proposals for providing, through the issuance of bonds and/or the authorization of an excess tax levy, the amount of capital funds that the district is required to provide under the plan. The proceeds of any such bond issue and/or excess tax levy shall be credited to the ((building)) capital projects fund of the school district in which the proposed high school facilities are to be located and shall be expended to pay the cost of high school facilities for the education of such students residing in the school districts as are included in the plan and not otherwise.

EXPLANATORY NOTE: The building fund was redesignated the capital projects fund by 1983 c 59 § 13; see RCW 28A.58.441.

Sec. 93. Section 1, chapter 210, Laws of 1977 ex. sess. as amended by section 3, chapter 191, Laws of 1982 and RCW 28A.58.131 are each amended to read as follows:

The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

- (1) To rent or lease building space, portable buildings, security systems, computers and other equipment;
- (2) To have maintained and repaired security systems, computers and other equipment; and
- (3) To provide pupil transportation services.

No school district may enter into a contract for pupil transportation unless it has notified the superintendent of public instruction that, in the best judgment of the district, the cost of contracting for the ensuing term will not exceed the projected cost of operating its own pupil transportation for the same term.

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.65.465 and 28A.21.135, as now or hereafter amended.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW ((28A.58.100)) 28A.58.099 and 28A.67.070(~~(, as now or hereafter amended)~~).

EXPLANATORY NOTE: RCW 28A.58.100 was repealed by 1983 c 275 § 4. The reference to this section has been amended to refer to a later enactment, RCW 28A.58.099, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 94. Section 10, chapter 15, Laws of 1975-'76 2nd ex. sess. as amended by section 10, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.137 are each amended to read as follows:

In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW ((28A.58.100(1))) 28A.58.099(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of school superintendents the provisions of RCW 28A.67.070, 28A.67.074 and 28A.88.010 shall be inapplicable.

EXPLANATORY NOTE: RCW 28A.58.100 was repealed by 1983 c 275 § 4. The reference to this section has been amended to refer to a later enactment, RCW 28A.58.099(1), that contains the substance of the repealed subsection.

Sec. 95. Section 4, chapter 8, Laws of 1971 and RCW 28A.58.435 are each amended to read as follows:

The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the ((building)) capital projects fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds in United States securities, as hereinafter specified after and pursuant to a resolution adopted by the board, authorizing and directing the county treasurer, as ex officio the treasurer of said district, to invest or reinvest, said moneys or any designated amount thereof in United States securities and specifying the type or character of the United States securities in which said moneys shall be invested: PROVIDED, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the ((building)) capital projects fund of the district in

his said office. If in the judgment of the board it shall be necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the board may, by resolution, direct the county treasurer to cause such redemption to be had at the "Redemption Value" of said securities or to sell said bonds and securities at not less than market value and accrued interest. The foregoing "securities" shall include United States bonds, federal treasury notes and treasury bonds and United States certificates of indebtedness and other federal securities which may, during the life of this statute, come within the terms of this section.

EXPLANATORY NOTE: The building fund was redesignated the capital projects fund by 1983 c 59 § 13; see RCW 28A.58.441.

Sec. 96. Section 4, chapter 188, Laws of 1979 ex. sess. as last amended by section 1, chapter 266, Laws of 1983 and RCW 28B.05.040 are each amended to read as follows:

Notwithstanding any other exemption provision in this section, no institution or organization shall advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's catalog: **PROVIDED**, That this prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions that offer other educational credentials requiring enrollment in and successful completion of a prescribed program of study, in compliance with the requirements of this chapter. The following education and institutions are exempted from the provisions of this chapter:

(1) Education sponsored by bona fide trade, business, professional, or fraternal organizations primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Education solely avocational or recreational in nature and institutions offering such education exclusively;

(3) Education offered by charitable institutions, organizations, or agencies: **PROVIDED**, That such education is not advertised or promoted as leading toward educational credentials;

(4) Institutions that are established, operated, and governed by this state or its political subdivisions under the provisions of Titles 28A, 28B and 28C RCW;

(5) Institutions that have been accredited by any accrediting association recognized by the agency for the purposes of this chapter: **PROVIDED**, That an institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption.

(6) Any other institution to the extent that it has been exempted from some or all of the provisions of this chapter in accordance with the agency exemption procedure in RCW 28B.05.130.

(7) Institutions not otherwise exempt that are of a religious character, but only as to those education programs exclusively devoted to religious or theological objectives, and that are represented in an accurate manner in institutional catalogs or other official publications.

(8) Educational institutions that are certified by the Federal Aviation Administration under 14 CFR 141 and those educational institutions certified under 14 CFR 61 which offer instruction solely for avocational or recreational purposes.

(9) Educational institutions that are licensed by the state of Washington under chapter ~~((§) 18.15 and 18.18)~~ 18.16 RCW.

(10) Institutions which only offer courses approved to meet the continuing education requirements for licensure under chapters 18.04, 18.78, 18.88, or 48.17 RCW.

(11) Institutions not otherwise exempt which offer only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded.

EXPLANATORY NOTE: Chapter 18.15 RCW was repealed by 1983 c 75 § 19, effective June 30, 1984. Chapter 18.18 RCW was repealed by 1983 c 208 § 7, effective June 30, 1984. The reference to these chapters has been amended to refer to a later enactment, chapter 18.16 RCW, that contains the substance of the repealed chapters.

Sec. 97. Section 30.04.160, chapter 33, Laws of 1955 as amended by section 7, chapter 157, Laws of 1983 and RCW 30.04.160 are each amended to read as follows:

No officer of any bank or trust company shall issue the note of such corporation for money borrowed or rediscount any of its notes except when authorized by resolution of its board of directors or by an authorized committee thereof. Violation of any provision of RCW 30.04.140 ~~((or 30.04.150))~~ or of this section shall constitute a felony.

EXPLANATORY NOTE: RCW 30.04.150 was repealed by 1983 c 157 § 10. The reference to this section has been deleted.

Sec. 98. Section 3, chapter 80, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 48, Laws of 1983 and RCW 31.12A.010 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the terms defined in this section shall have the meanings indicated.

(1) "Assessment" means the amount levied by the association against its members in order to carry out its stated purposes.

(2) "Association" means the credit union share guaranty association created in RCW 31.12A.020.

(3) "Board" means board of directors of the guaranty association.

(4) "Contracted guarantees" means those liabilities specifically agreed to by the association for providing assistance to member credit unions or for indemnifying any other entity against loss because of its participation in the absorption or liquidation of a distressed member credit union.

(5) "Credit union" means a credit union organized and authorized under laws contained in chapter 31.12 RCW, as now or hereafter amended.

(6) "Initial member" means a member qualified by the supervisor within sixty days after September 1, 1975, but not yet ratified by the board.

(7) "Member" means a member of the guaranty association, ratified by the board.

(8) "Share account" of a credit union shareholder includes the share and/or deposit accounts and the share and/or deposit certificates of which the shareholder is owner of record with the credit union.

(9) "Shareholder" includes both members and nonmembers of a credit union, who have either shares and/or deposits in the credit union, including deposits of deferred compensation as referred to in RCW (~~31.12.305~~) 31.12.125(10).

(10) "Supervisor" means the state supervisor of the division of savings and loan associations, or his successor in the event of a departmental restructuring.

(11) "Transfer" means entering on the credit union's books of account a decrease to one account and a corresponding increase to another account.

EXPLANATORY NOTE: RCW 31.12.305 was repealed by 1984 c 31 § 1, effective July 1, 1984. The reference to this section has been amended to refer to a later enactment, RCW 31.12.125(10), that contains the substance of the repealed section.

Sec. 99. Section 5, chapter 80, Laws of 1975 1st ex. sess. as amended by section 3, chapter 67, Laws of 1982 and RCW 31.12A.030 are each amended to read as follows:

The association shall have power:

- (1) To use a seal, to contract, to sue and be sued;
- (2) To make bylaws for conduct of its affairs, not inconsistent with the provisions of this chapter;
- (3) To lend and to borrow money, and require and give security;
- (4) To receive, collect, and enforce by legal proceedings, if necessary, payment of all assessments for which any member may be liable under this chapter, and payment of any other debt or obligation due the association;
- (5) To invest and reinvest its funds in investments permitted for credit unions in RCW (~~31.12.260, as now or hereafter amended~~) 31.12.425, provided such investments do not exceed a maximum maturity of one year;
- (6) To acquire, hold, convey, dispose of and otherwise engage in transactions involving or affecting real and personal property of all kinds;
- (7) To assess each member an amount not exceeding that permitted in RCW 31.12A.050 for liquidations to cover the expense of operation of the

association, as established in the bylaws, and for such other proper purposes of the association;

(8) To enter into contracts of insurance or reinsurance, insuring in whole or in part its contractual guaranties to its member credit unions and other insurance or bonding contracts necessary or advisable in the conduct of its business; and

(9) To carry out the applicable provisions of this chapter.

EXPLANATORY NOTE: RCW 31.12.260 was repealed by 1984 c 31 § 1, effective July 1, 1984. The reference to this section has been amended to refer to a later enactment, RCW 31.12.425, that contains the substance of the repealed section. The phrase "as now or hereafter amended" is not needed because of the enactment of RCW 1.12.028 and is therefore deleted.

Sec. 100. Section 9, chapter 255, Laws of 1969 ex. sess. and RCW 35-58.274 are each amended to read as follows:

Any vehicle for which an excise tax is payable under RCW 82.44.030 (~~and RCW 82.44.070~~) shall be exempt from the tax imposed by RCW 35.58.273.

EXPLANATORY NOTE: RCW 82.44.070 was repealed by 1983 c 26 § 5. The reference to this section has been deleted.

Sec. 101. Section 35A.27.010, chapter 119, Laws of 1967 ex. sess. as amended by section 60, chapter 3, Laws of 1983 and RCW 35A.27.010 are each amended to read as follows:

Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries and museums and the preservation of historical materials to the same extent authorized by general law for cities of any class, including, but not limited to, the authority for city libraries granted by RCW 35.22.280, the power to acquire and operate art museums, auditoriums, and other facilities as authorized by RCW 35-21.020, to participate in the establishment of regional libraries, and to contract for library service for public libraries with county, intercounty, and rural library districts, and for regional libraries as authorized by chapter 27.12 RCW, to have a county law library or branch thereof generally under the provisions of chapter 27.24 RCW, to preserve historical materials, markers, graves and records as provided in chapters 27.48 and ~~((43.51A))~~ 27.34 RCW, and to expend municipal funds thereon.

EXPLANATORY NOTE: Chapter 43.51A RCW was repealed by 1983 c 91 § 25. The reference to this chapter has been amended to refer to a later enactment, chapter 27.34 RCW, that contains the substance of the repealed chapter.

Sec. 102. Section 35A.82.010, chapter 119, Laws of 1967 ex. sess. as amended by section 74, chapter 3, Laws of 1983 and RCW 35A.82.010 are each amended to read as follows:

A code city shall collect, receive and share in the distribution of state collected and distributed excise taxes to the same extent and manner as general laws relating thereto apply to any class of city or town including, but not limited to, funds distributed to cities pursuant to RCW 82.37.190

relating to motor vehicle fuel importer's tax, and RCW 82.36.020 relating to motor vehicle fuel tax, and RCW 82.38.290 relating to use fuel tax, and RCW 82.36.275 and 82.38.080(~~((8))~~)(9).

EXPLANATORY NOTE: RCW 82.38.080(8) was renumbered RCW 82.38.080(9) by 1983 c 108 § 4.

Sec. 103. Section 35A.88.030, chapter 119, Laws of 1967 ex. sess. as amended by section 75, chapter 3, Laws of 1983 and RCW 35A.88.030 are each amended to read as follows:

General laws relating to harbor areas within cities, including but not limited to, chapter 36.08 RCW relating to transfer of territory lying in two or more counties; RCW 79.92.110 relating to disposition of rental from leasehold in the harbor areas; (~~RCW 79.92.040 reserving to cities the right to lease harbor improvements;~~) and RCW 88.32.240 and 88.32.250 relating to joint planning by cities and counties shall apply to, benefit and obligate ~~co~~ cities to the same extent as such general laws apply to any class of city.

EXPLANATORY NOTE: RCW 79.92.040 was repealed by 1984 c 221 § 30, effective October 1, 1984. The reference to this section has been deleted.

Sec. 104. Section 1, chapter 38, Laws of 1973 as last amended by section 29, chapter 263, Laws of 1984 and RCW 36.18.020 are each amended to read as follows:

Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of seventy dollars except in proceedings filed under RCW 26.50.030 where the petitioner shall pay a filing fee of twenty dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of seventy dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in

his office for which no other charge is provided by law, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of seventy dollars: PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated.

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, there shall be paid a fee of seventy dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of four dollars.

(15) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(16) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of seventy dollars.

(17) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(18) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW ((~~26.36.010~~) 26.33.080) or for forms and instructional brochures provided under RCW 26.50.030.

EXPLANATORY NOTE: RCW 26.36.010 was repealed by 1984 c 155 § 39, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.080, that contains the substance of the repealed sections.

Sec. 105. Section 36.64.060, chapter 4, Laws of 1963 as amended by section 78, chapter 3, Laws of 1983 and RCW 36.64.060 are each amended to read as follows:

Whenever the board of county commissioners of a county of the first class deems it for the interest of the county to construct or to aid the United States in constructing a canal to connect any bodies of water within the county, such county may construct such canal or aid the United States in constructing it and incur indebtedness for such purpose to an amount not exceeding five hundred thousand dollars and issue its negotiable bonds therefor in the manner and form provided in RCW (~~36.67.030 through 36.67.060~~) 36.67.010. Such construction or aid in construction is a county purpose.

EXPLANATORY NOTE: RCW 36.67.030, 36.67.040, and 36.67.050 were repealed by 1984 c 186 § 70. The reference to these sections has been amended to refer to a later enactment, RCW 36.67.010, that contains the substance of the repealed sections.

Sec. 106. Section 2, chapter 241, Laws of 1963 as last amended by section 2, chapter 36, Laws of 1982 and RCW 40.10.020 are each amended to read as follows:

The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the state archivist with the advice of the director of ~~((the department of))~~ emergency ~~((services))~~ management. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. The state archivist is authorized to charge the several departments of the state and local government the actual cost incurred in reproducing, storing and safeguarding such documents: **PROVIDED**, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof.

EXPLANATORY NOTE: The department of emergency services was redesignated the department of emergency management by 1984 c 38 § 1; see RCW 38.52.005.

Sec. 107. Section 2, chapter 108, Laws of 1967 ex. sess. as amended by section 98, chapter 3, Laws of 1983 and RCW 41.56.020 are each amended to read as follows:

This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington except as otherwise provided by RCW (~~47.64.031, 47.64.040,~~) 54.04.170, 54.04.180, and chapters 41-.59, 47.64, and 53.18 RCW.

EXPLANATORY NOTE: RCW 47.64.031 and 47.64.040 were repealed by 1983 c 15 § 31. The reference to those sections has been amended to refer to chapter 47.64 RCW, which contains the substance of those sections.

Sec. 108. Section 43.10.067, chapter 8, Laws of 1965 as amended by section 1, chapter 268, Laws of 1981 and RCW 43.10.067 are each amended to read as follows:

No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and RCW 43.10.065 through 43.10.080 shall not apply to the administration of the judicial council, the judicial qualifications commission, the state law library, the law school of the state university, or the administration of the state bar act by the Washington State Bar Association.

The authority granted by chapter 1.08 RCW(~~(RCW 44.24.050,)~~) and RCW 44.28.140 shall not be affected hereby.

EXPLANATORY NOTE: RCW 44.24.050 was repealed by 1983 c 52 § 7. The reference to this section has been deleted.

Sec. 109. Section 94, chapter 279, Laws of 1984 and RCW 43.131.323 are each amended to read as follows:

The powers and duties of the (~~(board of psychologists examiners)~~) examining board of psychology shall be terminated on June 30, 1986.

EXPLANATORY NOTE: The board of psychologists examiners was redesignated the examining board of psychology by 1984 c 279 § 75; see RCW 18.83.010.

Sec. 110. Section 7, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.070 are each amended to read as follows:

(1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(3) Enrollment shall be for a period of six months which may be extended by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by federal law: PROVIDED, That the conservation corps shall be operated, to the maximum extent possible, as a residential program and corps members being provided housing shall receive a stipend.

(4) Corps members are to be available at all times for emergency response services coordinated through the department of emergency (~~ser-~~ vices) management or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies.

EXPLANATORY NOTE: The department of emergency services was redesignated the department of emergency management by 1984 c 38 § 1; see RCW 38.52.005.

Sec. 111. Section 11, chapter 163, Laws of 1979 ex. sess. as last amended by section 3, chapter 237, Laws of 1983 and by section 1, chapter 238, Laws of 1983 and RCW 46.16.015 are each reenacted and amended to read as follows:

(1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060(;) or 70.120.080(~~(-or-70.120.090)~~) or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation which is within ninety days of the date of application for the vehicle license or license renewal. Certificates for fleet vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

(2) Subsection (1) of this section does not apply to the following vehicles:

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles fifteen years old or older;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled exclusively by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(f) Motor vehicles powered by diesel engines;

(g) Farm vehicles as defined in RCW 46.04.181;

(h) Used vehicles which are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW; or

(i) Motor vehicles exempted by the director of the department of ecology.

The provisions of subparagraph (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of licensing shall mail to each owner of a vehicle registered within an emission contributing area a notice regarding the boundaries of the area and restrictions established under this section that apply to vehicles registered in such areas. The information for the notice shall be supplied to the department of licensing by the department of ecology. Such a notice shall be mailed to the owner ninety days prior to the expiration date of the owner's motor vehicle license.

EXPLANATORY NOTE: (1) RCW 70.120.090 was repealed by 1983 c 238 § 2. The reference to this section has been deleted.

(2) This section was amended by 1983 c 237 § 3 and by 1983 c 238 § 1, each without reference to the other. Both amendments were incorporated in the publication of this section pursuant to RCW 1.12.025(2), and the section is now being reenacted.

Sec. 112. Section 46.16.340, chapter 12, Laws of 1961 as last amended by section 43, chapter 171, Laws of 1974 ex. sess. and RCW 46.16.340 are each amended to read as follows:

The director, from time to time, shall furnish the state department of emergency ((services)) management, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or radio station call letters of each person possessing the special amateur radio station license plates so that the facilities of such radio stations may be utilized to the fullest extent in the work of these governmental agencies.

EXPLANATORY NOTE: The department of emergency services was redesignated the department of emergency management by 1984 c 38 § 1; see RCW 38.52.005.

Sec. 113. Section 3, chapter 33, Laws of 1982 and RCW 46.68.124 are each amended to read as follows:

(1) The equivalent population for each county shall be computed as the sum of the population residing in the county's unincorporated area plus twenty-five percent of the population residing in the county's incorporated

area. Population figures required for the computations in this subsection shall be certified by the director of the office of financial management on or before July 1st of each odd-numbered year: PROVIDED HOWEVER, That for the purposes of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the director of the office of financial management shall furnish to the secretary of transportation those population figures required for the computation that were effective July 1, 1981.

(2) The total annual road cost for each county shall be computed as the sum of one twenty-fifth of the total estimated county road replacement cost, plus the total estimated annual maintenance cost. Appropriate costs for bridges and ferries shall be included. The secretary of transportation with the advice and assistance of the county road administration board shall be responsible for establishing a uniform system of roadway categories for both maintenance and construction and also for establishing a single state-wide cost per mile rate for each roadway category. The total annual cost for each county will be based on the established state-wide cost per mile and associated mileage for each category. The mileage to be used for these computations shall be as shown in the county road log as maintained by the secretary of transportation as of July 1, 1983, and each two years thereafter. Each county shall be responsible for submitting changes, corrections, and deletions as regards the county road log to the secretary of transportation. Such changes, corrections, and deletions shall be subject to verification and approval by the secretary of transportation prior to inclusion in the county road log: PROVIDED HOWEVER, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the total annual road costs shall be those shown on page K-3, column 4 of the "1980 Cost Factor Study" published December 9, 1980, by the department of transportation.

(3) The money need factor for each county shall be the county's total annual road cost less the following four amounts:

(a) One-half the sum of the actual county road tax levied upon the valuation of all taxable property within the county road districts pursuant to RCW 36.82.040 for the two calendar years next preceding the year of computation of the allocation amounts as certified by the department of revenue;

(b) One-half the sum of all funds received by the county road fund from the federal forest reserve fund pursuant to RCW ((36.33.110)) 28A-.02.300 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(c) One-half the sum of timber excise taxes received by the county road fund pursuant to chapter 84.33 RCW in the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(d) One-half the sum of motor vehicle license fees and motor vehicle and special fuel taxes refunded to the county, pursuant to RCW 46.68.080 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer.

(4) The state treasurer and the department of revenue shall furnish to the secretary of transportation the information required by subsection (3) of this section on or before July 1st of each odd-numbered year: PROVIDED HOWEVER, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the information required by subsection (3) of this section shall be for calendar years 1980 and 1981.

(5) The secretary of transportation, with the advice and assistance of the county road administration board, shall compute and provide to the counties the allocation factors of the several counties on or before September 1st of each year based solely upon the sources of information herein before required: PROVIDED, That the allocation factor shall be held to a level not more than five percent above or five percent below the allocation factor in use during the previous calendar year. Upon computation of the actual allocation factors of the several counties, the secretary of transportation shall provide such factors to the state treasurer to be used in the computation of the counties' fuel tax allocation for the succeeding calendar year. The state treasurer shall adjust the fuel tax allocation of each county on January 1st of every year based solely upon the information provided by the secretary of transportation.

(6) Notwithstanding the provisions of subsection (5) of this section, the secretary of transportation, with the advice and assistance of the county road administration board, shall adjust, as necessary, the allocation percentages of the several counties so that no county shall in any calendar year receive less than eighty-five percent of the actual funds distributed to that county in calendar year 1981 under this section. The eighty-five percent entitlement of funds authorized by this subsection shall be reduced proportionally in the succeeding year in the event that the total amount of funds distributed to the counties under this section in any year is less than the distribution of such funds in 1981.

EXPLANATORY NOTE: RCW 36.33.110 was repealed by 1982 c 126 § 3, effective July 1, 1983. The reference to this section has been amended to refer to a later enactment, RCW 28A.02.300, that contains the substance of the repealed section.

Sec. 114. Section 47.56.286, chapter 13, Laws of 1961 as amended by section 274, chapter 7, Laws of 1984 and RCW 47.56.286 are each amended to read as follows:

The provisions of chapter 47.56 RCW, except where inconsistent with RCW (~~47.56.281~~) 47.56.282 through 47.56.286, shall govern and be controlling in all matters and things necessary to carry out the purposes of

RCW ((~~47.56.281~~)) 47.56.282 through 47.56.286. Nothing in RCW ((~~47.56.281~~)) 47.56.282 through 47.56.286 is intended to amend, alter, modify, or repeal any of the provisions of any statute relating to the powers and duties of the department except as such powers and duties are amplified or modified by the specific provisions of RCW ((~~47.56.281~~)) 47.56.282 through 47.56.286 for the uses and purposes herein set forth. RCW ((~~47.56.281~~)) 47.56.282 through 47.56.286 are additional to such existing statutes and concurrent therewith.

EXPLANATORY NOTE: RCW 47.56.281 was decodified by 1984 c 7 § 387. The reference to this section has been amended to refer to RCW 47.56.282 which is the next valid section in the reference.

Sec. 115. Section 13, chapter 290, Laws of 1975 1st ex. sess. as amended by section 2, chapter 63, Laws of 1983 and RCW 48.46.120 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any health maintenance organization as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health maintenance organization shall submit its books and records relating its operation for financial condition and market conduct examinations and in every way facilitate them. The quality or appropriateness of medical services or systems shall not be examined except to the extent that such items are incidental to an examination of the financial condition or the market conduct of a health maintenance organization. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the health maintenance organization and the principals of such providers concerning their business.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the health maintenance organization in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination.

(4) Health maintenance organizations licensed in the state shall be equitably assessed to cover the cost of financial condition and market conduct examinations. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not exceed one-half cent per month per person entitled to health care services pursuant to a health maintenance agreement ((~~as defined in RCW 48.46.020(6)~~)), excluding such persons who are not residents of this state. Assessment receipts shall be deposited in the general fund, shall be accounted for separately, and shall be used for the sole purpose of funding the

examinations authorized in subsection (1) of this section. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.

EXPLANATORY NOTE: RCW 48.46.020 was amended by 1983 c 106 § 1. "Health maintenance agreement" is now defined in subsection (5) of that section, which is in the same chapter as this section, therefore the reference has been deleted.

Sec. 116. Section 14, chapter 106, Laws of 1983 and RCW 48.46.360 are each amended to read as follows:

Any employee whose compensation includes a health maintenance agreement, the cost of which is paid in full or in part by an employer including the state of Washington, its political subdivisions, or municipal corporations, or paid by payroll deduction, may pay the cost as it becomes due directly to the agreement holder whenever the employee's compensation is suspended or terminated directly or indirectly as a result of a strike, lock-out, or other labor dispute, for a period not exceeding six months and at the rate and coverages as the health maintenance agreement provides. During that period of time, such agreement may not be altered or changed. Nothing in this section impairs the right of the health maintenance organization to make normal decreases or increases in the cost of the health maintenance agreement upon expiration and renewal of the agreement, in accordance with the agreement. Thereafter, if such health maintenance agreement is no longer available, the employee shall be given the opportunity to convert as specified in RCW (~~48.46.065~~) 48.46.450 and 48.46.460. When the employee's compensation is so suspended or terminated, the employee shall be notified immediately by the agreement holder in writing, by mail addressed to the address last of record with the agreement holder, that the employee may pay the cost of the health maintenance agreement to the agreement holder as it becomes due as provided in this section. Payment must be made when due or the coverage may be terminated by the health maintenance organization.

EXPLANATORY NOTE: RCW 48.46.065 was repealed by 1984 c 190 § 11. The reference to this section has been amended to refer to later enactments, RCW 48.46.450 and 48.46.460, that contain the substance of the repealed section.

Sec. 117. Section 20, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.04.225 are each amended to read as follows:

The term "employment" does not include services performed in a barber shop (~~(licensed under chapter 18.15 RCW or a hairdressing)~~) or cosmetology shop by persons licensed under chapter (~~18.18~~) 18.16 RCW if:

- (1) The use of the shop facilities by the individual performing the services is contingent upon compensation to the shop owner; and
- (2) The individual performing the services receives no compensation or other consideration from the owner for the services performed.

EXPLANATORY NOTE: Chapter 18.15 RCW was repealed by 1983 c 75 § 19, effective June 30, 1984. Chapter 18.18 RCW was repealed by 1983 c 208 § 7,

effective June 30, 1984. The reference to these chapters has been amended to refer to chapter 18.16 RCW which now includes the substance of the repealed chapters.

Sec. 118. Section 1, chapter 55, Laws of 1971 as amended by section 1, chapter 121, Laws of 1977 ex. sess. and RCW 52.06.085 are each amended to read as follows:

Whenever two or more fire protection districts merge, the board of fire commissioners of the merged fire protection district shall consist of all of the original fire commissioners. At the next three elections for fire commissioners the number of fire commissioners for the merged district shall be reduced as follows, notwithstanding the number of fire commissioners whose terms expire:

In the first election after the merger, only one position shall be filled, whether the new fire protection district be a three member district or a five member district pursuant to RCW (~~52.12.015~~) 52.14.020.

In each of the two subsequent elections, one position shall be filled if the new fire protection district is a three member district and two positions shall be filled if the new fire protection district is a five member district pursuant to RCW (~~52.12.015~~) 52.14.020.

Thereafter, the fire commissioners shall be elected in the same manner as prescribed for such fire protection districts of the state.

EXPLANATORY NOTE: RCW 52.12.015 was recodified as RCW 52.14.020 by 1984 c 230 § 89. The reference to this section has been amended to reflect this change.

Sec. 119. Section 6, chapter 237, Laws of 1959 as amended by section 6, chapter 179, Laws of 1979 ex. sess. and RCW 52.08.025 are each amended to read as follows:

Effective January 1, 1960, every city or town, or portion thereof, which is situated within the boundaries of a fire protection district shall become automatically removed from such fire protection district, and no fire protection district shall thereafter include any city or town, or portion thereof, within its boundaries except as provided for in RCW (~~52.04.020, 52.04.170, 52.04.180, 52.04.190, and 52.04.200~~) 52.02.020, 52.04.061, 52.04.071, 52.04.081, and 52.04.101.

EXPLANATORY NOTE: RCW 52.04.020, 52.04.170, 52.04.180, 52.04.190, and 52.04.200 were recodified as RCW 52.02.020, 52.04.061, 52.04.071, 52.04.081, and 52.04.101, respectively, by 1984 c 230 § 89. The reference to those sections has been amended to reflect these changes.

Sec. 120. Section 7, chapter 237, Laws of 1959 and RCW 52.08.041 are each amended to read as follows:

The provisions of RCW 57.28.110 shall apply to territory withdrawn from a fire protection district under the provision of chapter (~~52.22~~) 52.08 RCW.

EXPLANATORY NOTE: The provisions of chapter 52.22 RCW governing withdrawal of territory were recodified in chapter 52.08 RCW by 1984 c 230 § 89. The reference to chapter 52.22 RCW has been amended to reflect this change.

Sec. 121. Section 8, chapter 24, Laws of 1951 2nd ex. sess. as last amended by section 44, chapter 230, Laws of 1984 and RCW 52.16.130 are each amended to read as follows:

To carry out the purposes for which fire protection districts are created, the board of fire commissioners of a district may levy each year, in addition to the levy or levies provided in RCW (~~52.16.120~~) 52.16.080 for the payment of the principal and interest of any outstanding general obligation bonds, an ad valorem tax on all taxable property located in the district not to exceed fifty cents per thousand dollars of assessed value: PROVIDED, That in no case may the total general levy for all purposes, except the levy for the retirement of general obligation bonds, exceed one dollar per thousand dollars of assessed value. Levies in excess of one dollar per thousand dollars of assessed value or in excess of the aggregate dollar rate limitations or both may be made for any district purpose when so authorized at a special election under RCW 84.52.052. Any such tax when levied shall be certified to the proper county officials for the collection of the tax as for other general taxes. The taxes when collected shall be placed in the appropriate district fund or funds as provided by law, and shall be paid out on warrants of the auditor of the county in which the district is situated, upon authorization of the board of fire commissioners of the district.

EXPLANATORY NOTE: RCW 52.16.120 was repealed by 1984 c 186 § 70. The reference to this section has been amended to refer to a later enactment, RCW 52.16.080, that contains the substance of the repealed section.

Sec. 122. Section 1, chapter 126, Laws of 1974 ex. sess. and RCW 52.18.010 are each amended to read as follows:

The board of fire commissioners of any fire protection district created pursuant to chapter (~~52.04~~) 52.02 RCW may by resolution, for fire protection purposes authorized by law, fix and impose a service charge upon personal property and improvements to real property, which are located within the fire protection district on the date specified and which have or will receive the benefit of fire protection provided by the fire protection district, to be paid by the owners of such properties: PROVIDED, That such service charge shall not apply to personal property and improvements to real property owned or used by any recognized religious denomination for purposes related to the religious works of such denomination, including schools and educational facilities and all grounds and buildings related thereto or to personal property and improvements to real property owned or used by public or private schools or institutions of higher education. The aggregate amount of such service charges in any one year shall not exceed an amount equal to sixty percent of the operating budget for the year in which the service charge is to be collected: PROVIDED, That it shall be the duty of the county legislative authority to make any necessary adjustments to assure compliance with such limitation and to immediately notify the board of fire commissioners of any changes thereof.

Any such service charge imposed shall be reasonably proportioned to the measurable financial benefits to property resulting from the fire protection afforded by the district. It shall be deemed acceptable to proportion the service charge to the values of the properties as found by the county assessor modified generally in the proportion that fire insurance rates are reduced or entitled to be reduced as the result of providing such fire services. Any other method that reasonably apportions the service charges to the actual financial benefits resulting from the degree of protection, such as the distance from regularly maintained fire protection equipment, may be specified in the resolution and shall be subject to contest only on the ground of unreasonable or capricious action: PROVIDED, That any such method shall be in accordance with the fire defense rating of the district as ratified by the state insurance commissioner: PROVIDED FURTHER, That no service charge authorized by the provisions of this chapter shall be applicable to the personal property or improvements to real property of any individual, corporation, partnership, firm, organization, or association maintaining his or its own fire department and whose fire protection and training system has been accepted by a fire insurance underwriter maintaining a fire protection engineering and inspection service authorized by the state insurance commissioner to do business in this state.

EXPLANATORY NOTE: The provisions of chapter 52.04 RCW relating to the creation of fire protection districts were recodified in chapter 52.02 RCW by 1984 c 230 § 89. The reference to chapter 52.04 RCW has been amended to reflect this change.

Sec. 123. Section 2, chapter 126, Laws of 1974 ex. sess. and RCW 52.18.020 are each amended to read as follows:

The term "personal property" for the purposes of this chapter shall be held and construed to embrace and include every form and manner of tangible personal property, including but not limited to, all goods, chattels, stock in trade, estates, or crops: PROVIDED, That there shall be exempt from the service charge imposed pursuant to the provisions of this chapter all personal property not assessed and subjected to ad valorem taxation by the county assessor pursuant to the provisions of Title 84 RCW, and all property subject to the provisions of RCW ((~~52.36.020~~) 52.30.020): PROVIDED, That the term "personal property" shall not include field crops, livestock or other tangible personal farm property not ordinarily housed or stored within a building structure: PROVIDED FURTHER, That the term "improvements to real property" shall not include permanent growing crops, field improvements installed for the purpose of aiding the growth of permanent crops, or other field improvements normally not subject to damage by fire.

EXPLANATORY NOTE: RCW 52.36.020 was recodified as RCW 52.30.020 by 1984 c 230 § 89. The reference to RCW 52.36.020 has been amended to reflect this change.

Sec. 124. Section 2, chapter 188, Laws of 1983 and RCW 53.08.320 are each amended to read as follows:

A moorage facility operator may adopt all regulations necessary for rental and use of moorage facilities and for the expeditious collection of port charges. The regulations may also establish procedures for the enforcement of these regulations by port district, city, county, metropolitan park district or town personnel. The regulations shall include the following:

(1) Procedures authorizing moorage facility personnel to take reasonable measures, including the use of chains, ropes, and locks, to secure vessels within the moorage facility so that the vessels are in the possession and control of the moorage facility operator and cannot be removed from the moorage facility. These procedures may be used if an owner mooring or storing a vessel at the moorage facility fails, for more than sixty days after being notified that charges are owing, to pay the port charges owed. Notification shall be by registered mail to the owner at his last known address. If no address was furnished by the owner, the port district, city, county, metropolitan park district, or town need not give such notice. At the time of securing the vessel, an authorized moorage facility employee shall attach to the vessel two readily visible notification stickers. The stickers shall be of a reasonable size and shall contain the following information:

- (a) The date and time the stickers were attached;
- (b) The identity of the authorized employee;
- (c) A statement that if the account is not paid in full within one hundred eighty days from the time the stickers are attached, the vessel may be sold at public auction to satisfy the port charges; and
- (d) The address and telephone number where additional information may be obtained concerning release of the vessel.

If the vessel is the subject of a delinquent moorage account, and sixty days have expired since notification pursuant to subsection (1) of this section, the moorage facility operator shall review its records to ascertain the identity of the owner. The operator shall make a reasonable effort to contact the owner by registered mail in order to give the owner the information on the notification stickers.

(2) Procedures authorizing moorage facility personnel at their discretion to move moored vessels ashore for storage within properties under the operator's control or for storage with private persons under their control as bailees of the moorage facility, if the vessel is, in the opinion of port personnel, in danger of sinking or of sustaining other damage. Reasonable costs of any such procedure shall be paid by the vessel's owner.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the moorage facility operator for port charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the moorage facility operator for the immediate removal of the vessel from the moorage facility or for authorized moorage; and

(b) Making payment to the operator of all port charges, or by posting with the operator a sufficient cash bond or other security acceptable to such operator, to be held in trust by the operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the port charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, the trust shall terminate and the moorage facility operator shall receive so much of the bond or other security as is necessary to satisfy any judgment, costs, and interest as may be awarded to the moorage facility operator. The balance shall be refunded immediately to the owner at his last known address.

(4) If a vessel moored or stored at a moorage facility is abandoned, the port district, city, county, metropolitan park district, or town, may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as follows:

(a) If a vessel has been secured by the moorage facility operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within one hundred eighty days after notifying the owner under subsection (1) of this section, or in all other cases, for one hundred eighty days after the operator secures the vessel, the vessel shall be conclusively presumed to have been abandoned by the owner;

(b) Before the vessel is sold, the owner of the vessel shall be given at least twenty days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of port charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the moorage facility is located. Such notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The moorage facility operator may bid all or part of its port charges at the sale and may become a purchaser at the sale;

(c) The proceeds of a sale under this section shall first be applied to the payment of port charges. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the moorage facility operator within one year of the date of the sale, the excess funds from the sale shall revert to the department of revenue pursuant to chapter ((63-28)) 63.29 RCW. If the sale is for a sum less than the applicable port charges, the moorage facility operator is entitled to assert a claim for a deficiency.

(5) The regulations authorized under this section shall be enforceable only if the moorage facility has had its tariff containing such regulations conspicuously posted at all moorage facility offices at all times.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter.

Sec. 125. Section 8, chapter 85, Laws of 1979 ex. sess. and RCW 63-.21.080 are each amended to read as follows:

This chapter shall not apply to:

- (1) Motor vehicles under chapter 46.52 RCW;
- (2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW; and
- (3) Uniform disposition of unclaimed property under chapter ((63-28)) 63.29 RCW.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter.

Sec. 126. Section 5, chapter 104, Laws of 1961 and RCW 63.40.050 are each amended to read as follows:

The provisions of chapter ((63-28)) 63.29 RCW shall not apply to personal property in the possession of the office of county sheriff.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter.

Sec. 127. Section 6, chapter 52, Laws of 1983 1st ex. sess. and RCW 63.42.060 are each amended to read as follows:

(1) The uniform ((disposition of)) unclaimed property act, chapter ((63-28)) 63.29 RCW, does not apply to personal property in the possession of the department of corrections.

(2) Chapter 63.24 RCW, unclaimed property in hands of bailee, does not apply to personal property in the possession of the department of corrections.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter. Chapter 63.29 RCW is the uniform unclaimed property act of 1983.

Sec. 128. Section 22, chapter 7, Laws of 1982 2nd ex. sess. and RCW 67.70.220 are each amended to read as follows:

If the person entitled to a prize is under the age of eighteen years, and such prize is less than five thousand dollars, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize is under the age of eighteen years, and

such prize (~~(if it is)~~) is five thousand dollars or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the Washington uniform gifts to minors act, chapter (~~(21.24)~~) 11.93 RCW, and for the purposes of this section the terms "adult member of a minor's family," "guardian of a minor," and "bank" shall have the same meaning as in chapter (~~(21.24)~~) 11.93 RCW. The commission and the director shall be discharged of all further liability upon payment of a prize to a minor pursuant to this section.

EXPLANATORY NOTE: Chapter 21.24 RCW was recodified as chapter 11.93 RCW by 1984 c 149 §§ 15 and 24, effective January 1, 1985. The reference to chapter 21.24 RCW has been amended to reflect this change.

Sec. 129. Section 3, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.030 are each amended to read as follows:

(1) In addition to all other fees and taxes, there is hereby imposed and the department of revenue shall collect an annual fee from every person identified by the department of ecology for the privilege of utilizing or operating an identified site, other than as described in RCW 70.105A.040(1), in connection with any of the following business activities within this state:

- (a) Exploring for, extracting, beneficiating, processing, or selling metallic or nonmetallic minerals;
- (b) Exploring for, extracting, processing, or selling coal;
- (c) Producing, distributing, or selling electricity;
- (d) Industrial or nonresidential contracting or heavy construction;
- (e) Painting or sandblasting;
- (f) Producing, processing, or selling rubber or plastics;
- (g) Producing, processing, or selling glass, cement, or concrete;
- (h) Cutting, milling, producing, preparing, or selling lumber or wood products, including wooden furniture or fixtures;
 - (i) Producing, preparing, or selling paper or allied products;
 - (j) Printing or publishing;
 - (k) Synthesizing, producing, processing, preparing, or selling chemicals or allied products;
 - (l) Exploring for, extracting, producing, processing, distributing, or selling petroleum or gas;
 - (m) Fabricating rubber or plastic products;
 - (n) Beneficiating, processing, or selling primary or secondary metals;
 - (o) Fabricating metal products, including metal furniture or fixtures;
 - (p) Fabricating, constructing, preparing, installing, or selling machinery or supplies;

(q) Fabricating, constructing, installing, preparing, or selling electrical or electronic equipment, machinery, or supplies;

(r) Fabricating, producing, preparing, or selling transportation equipment;

(s) Transporting by railroad, motor vehicle, or water vessel;

(t) Telephone communication;

(u) Drycleaning, photofinishing, or furniture refinishing;

(v) Transferring, treating, storing, or disposing of solid, dangerous, or extremely hazardous wastes; and

(w) Repairing or servicing motor vehicles, railroad equipment, or water vessels.

When determining the particular business activity at an identified site, the department of ecology shall consider the major purpose of the activity or activities occurring at the identified site. Under this section, each identified site shall be required to pay only one fee annually, but no fee shall be assessed on any person at an identified site engaged solely in making retail sales as defined in RCW 82.04.050, except for those identified sites which generate hazardous waste.

(2) The fee imposed by this section shall be due and payable on June 30 of the year next succeeding the calendar year in which a person has engaged at any time in the business activities listed in subsection (1) of this section. The amount of the fee for an identified site shall be graduated by reference to the annual gross income of the business apportioned to the site as provided in subsection (3) of this section in accordance with the following schedule:

(a) For annual gross income not in excess of one million dollars, a fee of not more than one hundred fifty dollars;

(b) For annual gross income in excess of one million dollars but not exceeding ten million dollars, a fee of not more than seven hundred fifty dollars;

(c) For annual gross income in excess of ten million dollars, a fee of not more than seven thousand five hundred dollars.

The department of ecology shall further graduate the fees set forth in (a), (b), and (c) of this subsection in accordance with criteria including but not limited to the quantity of hazardous waste generated and the health and environmental risks associated with the waste. The department of ecology shall publish by rule a schedule of these graduated fees.

(3) For purposes of this section, annual gross income of the business shall mean gross proceeds of sales as defined in RCW 82.04.070 or gross income of the business as defined in RCW 82.04.080; and shall mean gross income, as defined in RCW 82.16.010(~~((+3))~~) (12). Annual gross income of the business of a person rendering services taxable under RCW 82.04.290 and maintaining places of business within and without this state shall be apportioned in accordance with the provisions of RCW 82.04.460. The total

annual gross income of the business taxable in this state under chapters 82.04 and 82.16 RCW shall be apportioned equally by the department of ecology among the identified sites utilized by such business in this state without regard to the amount or nature of the use: PROVIDED, That the person subject to the fee may request, and the department of ecology shall grant, apportionment among identified sites utilized in this state according to each site's share of annual gross income of the business apportioned to this state. The person subject to the fee shall bear the burden of supporting the allocation among sites with appropriate data as reasonably requested by the department of ecology.

(4) If an identified site does not generate hazardous wastes regulated by chapter 70.105 RCW, the person owning or controlling the site is exempt from the fee imposed by this section.

(5) Notwithstanding subsection (1) or (2) of this section or RCW 70.105A.040, no person who owns or operates a combined identified site and hazardous waste treatment, storage or disposal site shall be required to pay more than seven thousand five hundred dollars annually to the hazardous waste control and elimination account.

(6) The fees imposed by this section and the limitation on total payment of subsection (5) of this section shall be adjusted by five percent whenever the consumer price index of the United States department of labor increases or decreases by a five percent increment from the index figure in existence on January 1, 1983, and such fee and limitation adjustments shall be published in rules by the department of ecology.

(7) Fees shall not be required under this section for solid wastes generated primarily from the combustion of coal or other fossil fuels, until at least six months after the date of submission of the study required by section 8002 of the federal resource conservation and recovery act.

(8) For purposes of this section "manufacturer," "wholesaler," "retailer," and "person engaging in service activities" shall have the meaning attributed to such terms in chapter 82.04 RCW. "Business activities" shall mean activities of any person subject to the fees imposed in subsection (1) of this section engaging in business as defined in chapters 82.04 and 82.16 RCW.

(9) In the administration of this section and in addition to other provisions in this chapter for the enforcement and collection of fees due and owing under this section, the department of revenue is authorized to apply the provisions of chapter 82.32 RCW, provided that the provisions of RCW 82.32.050 and 82.32.090 shall not be applied. If the annual gross income of the business of any person subject to the fee imposed under this section is finally determined to be greater or less than that reported to the department of revenue for the year in question, the department of revenue shall, if necessary, recompute the fee due and shall refund or assess the outstanding balance, as the case may be.

EXPLANATORY NOTE: RCW 82.16.010(13) was renumbered RCW 82.16.010(12) by 1983 2nd ex.s. c 3 § 32. The reference has been amended to reflect this change.

Sec. 130. Section 3, chapter 163, Laws of 1979 ex. sess. and RCW 70.120.030 are each amended to read as follows:

(1) The director shall adopt motor vehicle emission standards. The standards adopted shall ensure that no less than seventy percent of the vehicles tested annually comply with the standards on the first inspection conducted for the vehicles under this chapter each year. The standards shall be adopted as rules in accordance with chapter 34.04 RCW.

(2) The director shall adopt rules for conducting emission tests for motor vehicles.

(3) The director shall adopt air quality standards for air contaminants from the emissions of motor vehicles. The standards shall be adopted as rules and may not be more stringent than those established for the contaminants by the United States environmental protection agency as in effect on September 1, 1979, to implement the federal clean air act.

(4) The director shall adopt, by rule, criteria for calibrating emission testing equipment, including, but not limited to, those identifying standard calibration gas mixtures.

(5) The director shall require that the electronic equipment utilized to test emissions at any station established pursuant to RCW 70.120.040(5) or authorized pursuant to RCW 70.120.080 (~~or 70.120.090~~) be properly calibrated.

The department shall examine frequently the calibration of the emission testing equipment used at such stations.

EXPLANATORY NOTE: RCW 70.120.090 was repealed by 1983 c 238 § 2. The reference to this section has been deleted.

Sec. 131. Section 12, chapter 163, Laws of 1979 ex. sess. and RCW 70.120.110 are each amended to read as follows:

Certificates of compliance and acceptance constitute official forms. False statements made thereon or made to secure such certificates are punishable pursuant to RCW 9A.72.040 and the certificates shall bear notice to that effect.

Certificates of compliance and certificates of acceptance may be issued only in the manner authorized by RCW 70.120.060, 70.120.070, and 70.120.080 (~~and 70.120.090~~).

EXPLANATORY NOTE: RCW 70.120.090 was repealed by 1983 c 238 § 2. The reference to this section has been deleted.

Sec. 132. Section 4, chapter 172, Laws of 1982 as amended by section 1, chapter 165, Laws of 1984 and RCW 70.136.030 are each amended to read as follows:

The governing body of each applicable political subdivision of this state may designate a hazardous materials incident command agency within its

respective boundaries, and file this designation with the director of ((the state department of emergency services)) emergency management or its successor agency. In designating an incident command agency, the political subdivision shall consider the training, manpower, expertise, and equipment of various available agencies as well as the Uniform Fire Code and other existing codes and regulations. Along state and interstate highway corridors, the Washington state patrol shall be the designated incident command agency unless by mutual agreement that role has been assumed by another designated incident command agency.

EXPLANATORY NOTE: The department of emergency services was redesignated the department of emergency management by 1984 c 38 § 1; see RCW 38.52.005.

Sec. 133. Section 1, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.100 are each amended to read as follows:

It is the policy of this state to enable the secretary to charge fees for certain services to adoptive parents who are able to pay for such services.

It is, however, also the policy of this state that the secretary of the department of social and health services shall be liberal in waiving, reducing, or deferring payment of any such fee to the end that adoptions shall be encouraged in cases where prospective adoptive parents lack means.

It is the policy of this state to encourage, within the limits of available funds, the adoption of certain hard to place children in order to make it possible for children living in, or likely to be placed in, foster homes or institutions to benefit from the stability and security of permanent homes in which such children can receive continuous parental care, guidance, protection, and love and to reduce the number of such children who must be placed or remain in foster homes or institutions until they become adults.

It is also the policy of this state to try, by means of the program of adoption support authorized in RCW ((~~26.32.115~~)) 26.33.320 and 74.13.100 through 74.13.145, to reduce the total cost to the state of foster home and institutional care.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 134. Section 3, chapter 63, Laws of 1971 ex. sess. as last amended by section 7, chapter 67, Laws of 1979 ex. sess. and RCW 74.13.106 are each amended to read as follows:

All fees paid for adoption services pursuant to RCW ((~~26.32.115~~)) 26.33.320 and 74.13.100 through 74.13.145 shall be credited to the general fund. Expenses incurred in connection with supporting the adoption of hard to place children shall be paid by warrants drawn against such appropriations as may be available. The secretary may for such purposes, contract with any public agency or licensed child placing agency and/or adoptive

parent and is authorized to accept funds from other sources including federal, private, and other public funding sources to carry out such purposes.

The secretary shall actively seek, where consistent with the policies and programs of the department, and shall make maximum use of, such federal funds as are or may be made available to the department for the purpose of supporting the adoption of hard to place children. The secretary may, if permitted by federal law, deposit federal funds for adoption support, aid to adoptions, or subsidized adoption in the general fund and may use such funds, subject to such limitations as may be imposed by federal or state law, to carry out the program of adoption support authorized by RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 135. Section 4, chapter 63, Laws of 1971 ex. sess. as last amended by section 4, chapter 118, Laws of 1982 and RCW 74.13.109 are each amended to read as follows:

The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145.

Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

Such agreements shall meet the following criteria:

(1) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(2) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(3) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

(4) Any prospective parent who is to be a party to such agreement shall be a person who, while having the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child, lacks the financial means fully to care for such hard to place child.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 136. Section 5, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.112 are each amended to read as follows:

The factors to be considered by the secretary in setting the amount of any payment or payments to be made pursuant to RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145 and in adjusting standards hereunder shall include: The size of the family including the adoptive child, the usual living expenses of the family, the special needs of any family member including education needs, the family income, the family resources and plan for savings, the medical and hospitalization needs of the family, the family's means of purchasing or otherwise receiving such care, and any other expenses likely to be needed by the child to be adopted.

The amounts paid for the support of a child pursuant to RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145 may vary from family to family and from year to year. Due to changes in economic circumstances or the needs of the child such payments may be discontinued and later resumed.

Payments under RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145 may be continued by the secretary subject to review as provided for herein, if such parent or parents having such child in their custody establish their residence in another state or a foreign jurisdiction.

In fixing the standards to govern the amount and character of payments to be made for the support of adopted children pursuant to RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145 and before issuing rules and regulations to carry out the provisions of RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145, the secretary shall consider the comments and recommendations of the committee designated by the secretary to advise him with respect to child welfare.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 137. Section 6, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.115 are each amended to read as follows:

To carry out the program authorized by RCW ((~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145, the secretary may make continuing payments or lump sum payments of adoption support. In lieu of continuing

payments, or in addition to them, the secretary may make one or more specific lump sum payments for or on behalf of a hard to place child either to the adoptive parents or directly to other persons to assist in correcting any condition causing such child to be hard to place for adoption.

After determination by the secretary of the amount of a payment or the initial amount of continuing payments, the prospective parent or parents who desire such support shall sign an agreement with the secretary providing for the payment, in the manner and at the time or times prescribed in regulations to be issued by him subject to the provisions of RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145, of the amount or amounts of support so determined.

Payments shall be subject to review as provided in RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 138. Section 7, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.118 are each amended to read as follows:

At least annually the secretary shall review the need of any adoptive parent or parents receiving continuing support pursuant to RCW (~~(26.32-115)~~) 26.33.320 and 74.13.100 through 74.13.145, or the need of any parent who is to receive more than one lump sum payment where such payments are to be spaced more than one year apart. Such review shall be made not later than the anniversary date of the adoption support agreement.

At the time of such annual review and at other times during the year when changed conditions, including variations in medical opinions, prognosis and costs, are deemed by the secretary to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child, in the adoptive parents' income, resources, and expenses for the care of such child or other members of the family, including medical and/or hospitalization expense not otherwise covered by or subject to reimbursement from insurance or other sources of financial assistance.

Any parent who is a party to such an agreement may at any time in writing request, for reasons set forth in such request, a review of the amount of any payment or the level of continuing payments. Such review shall be begun not later than thirty days from the receipt of such request. Any adjustment may be made retroactive to the date such request was received by the secretary. If such request is not acted on within thirty days after it has been received by the secretary, such parent may invoke his rights under the hearing provisions set forth in RCW 74.13.127.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to

a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 139. Section 8, chapter 63, Laws of 1971 ex. sess. and RCW 74-.13.121 are each amended to read as follows:

So long as any adoptive parent is receiving support pursuant to RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 he shall, not later than two weeks after it is filed with the United States government, file with the secretary a copy of his federal income tax return. Such return and any information thereon shall be marked by the secretary "confidential", shall be used by the secretary solely for the purposes of RCW ((26.32.115)) 26-.33.320 and 74.13.100 through 74.13.145, and shall not be revealed to any other person, institution or agency, public or private, including agencies of the United States government, other than a superior court, judge or commissioner before whom a petition for adoption of a child being supported or to be supported pursuant to RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 is then pending.

In carrying on the review process authorized by RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 the secretary may require the adoptive parent or parents to disclose such additional financial information, not privileged, as may enable him to make determinations and adjustments in support to the end that the purposes and policies of this state expressed in RCW 74.13.100 may be carried out, provided that no adoptive parent or parents shall be obliged, by virtue of this section, to sign any agreement or other writing waiving any constitutional right or privilege nor to admit to his or her home any agent, employee, or official of any department of this state, or of the United States government.

Such information shall be marked "confidential" by the secretary, shall be used by him solely for the purposes of RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145, and shall not be revealed to any other person, institution, or agency, public or private, including agencies of the United States government other than a superior court judge or commission before whom a petition for adoption of a child being supported or to be supported pursuant to RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 is then pending.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 140. Section 9, chapter 63, Laws of 1971 ex. sess. and RCW 74-.13.124 are each amended to read as follows:

An agreement for adoption support made pursuant to RCW 26.32.115 before January 1, 1985, or RCW 26.33.320 and 74.13.100 through 74.13-.145, although subject to review and adjustment as provided for herein, shall, as to the standard used by the secretary in making such review or reviews and any such adjustment, constitutes a contract within the meaning of

section 10, Article I of the United States Constitution and section 23, Article I of the state Constitution. For that reason once such an agreement has been made any review of and adjustment under such agreement shall as to the standards used by the secretary, be made only subject to the provisions of RCW (~~(26.32.115)~~) 26.33.320 and 74.13.100 through 74.13.145 and such rules and regulations relating thereto as they exist on the date of the initial determination in connection with such agreement or such more generous standard or parts of such standard as may hereafter be provided for by law or regulation. Once made such an agreement shall constitute a solemn undertaking by the state of Washington with such adoptive parent or parents. The termination of the effective period of RCW (~~(26.32.115)~~) 26.33.320 and 74.13.100 through 74.13.145 or a decision by the state or federal government to discontinue or reduce general appropriations made available for the purposes to be served by RCW (~~(26.32.115)~~) 26.33.320 and 74.13.100 through 74.13.145, shall not affect the state's specific continuing obligations to support such adoptions, subject to such annual review and adjustment for all such agreements as have theretofore been entered into by the state.

The purpose of this section is to assure any such parent that, upon his consenting to assume the burdens of adopting a hard to place child, the state will not in future so act by way of general reduction of appropriations for the program authorized by RCW (~~(26.32.115)~~) 26.33.320 and 74.13.100 through 74.13.145 or ratable reductions, to impair the trust and confidence necessarily reposed by such parent in the state as a condition of such parent taking upon himself the obligations of parenthood of a difficult to place child.

Should the secretary and any such adoptive parent differ as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary in making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement such adoptive parent may invoke his rights, including all rights of appeal under the fair hearing provisions, available to him under RCW 74.13.127.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer also to a later enactment, RCW 26.33.320, that contains the substance of the repealed section. The reference to the repealed section is retained to cover agreements entered into under RCW 26.32.115 that may still be in effect.

Sec. 141. Section 10, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.127 are each amended to read as follows:

Voluntary amendments of any support agreement entered into pursuant to RCW 26.32.115 before January 1, 1985, or RCW 26.33.320 and 74.13.100 through 74.13.145 may be made at any time. In proposing any such

amending action which relates to the amount or level of a payment or payments, the secretary shall, as provided in RCW 74.13.124, use either the standard which existed as of the date of the initial determination with respect to such agreement or any subsequent standard or parts of such standard which both parties to such agreement agree is more generous than those in effect as of the date of such initial agreement.

The secretary shall seek voluntary amendment of any such agreement before invoking the additional procedures provided for in this section.

Whenever the secretary, having found an adoptive parent declines to agree to a voluntary amendment, wishes to enter an order increasing or decreasing the level of a payment or payments for the support of an adoptive child under RCW (~~26.32.115~~) 26.33.320 and 74.13.100 through 74.13.145, he shall notify the adoptive parent of the action the secretary proposed to take in writing by certified mail or personal service stating the grounds upon which the secretary proposes such action.

Within thirty days from the receipt of such notice the adoptive parent or parents may serve upon the official of the department sending such notice a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, such officer shall fix a hearing date, which date shall be not later than thirty-five days from the receipt by him of such request for hearing. The matter shall be heard on such date or on such date to which the matter is continued by agreement of the parties. Such official shall also notify the committee designated by the secretary to advise him on child welfare of the filing of such request not less than twenty-five days before the hearing date. If the adoptive parent agrees, a member of such committee may attend the hearing.

If no request for hearing is made within the time specified, the proposed action shall be taken and the agreement between the adoptive parent and the state shall be deemed amended accordingly.

It shall be the duty of the secretary within thirty days after the date of the hearing to notify the appellant of the decision.

The secretary shall promulgate and publish rules governing the conduct of such hearings, including provision for confidentiality.

In all other respects such proceedings shall be conducted by the department pursuant to RCW 74.08.070 and regulations issued pursuant thereto. The adoptive parent shall have a right of appeal as provided in RCW 74.08.080. If the decision of the secretary or the superior court is made in favor of the appellant, adoption support shall be paid from the effective date of the action or decision appealed from.

Except as otherwise specifically provided for in this section the rules adopted by the secretary and the manner of carrying on the proceedings shall be in accord with the provisions of Title 34 RCW.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer

also to a later enactment, RCW 26.33.320, that contains the substance of the repealed section. The reference to the repealed section is retained to cover agreements entered into under RCW 26.32.115 that may still be in effect.

Sec. 142. Section 11, chapter 63, Laws of 1971 ex. sess. as amended by section 9, chapter 67, Laws of 1979 ex. sess. and RCW 74.13.130 are each amended to read as follows:

If the secretary determines that a prospective adoptive parent or parents cannot, because of limited financial means, pay the cost or the full cost of an adoption proceeding for the adoption of a hard to place child who would be eligible for support under RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145, the secretary may authorize the payment from the appropriations available from the general fund of all or part a reasonable attorney's fee to be determined by the superior court hearing the adoption and court costs. The clerk of the court shall furnish the secretary with a certified copy of the decree of adoption containing the finding as to such attorney's fee.

In evaluating any such prospective parent's ability to pay the secretary may use the same criteria for evaluating ability to pay which are to be used by him in waiving, reducing, or deferring fees pursuant to RCW 74.13.103 plus the burdens likely to be assumed by such parent even after adoption support is provided pursuant to RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 143. Section 13, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.133 are each amended to read as follows:

The secretary shall keep such general records as are needed to evaluate the effectiveness of the program of adoption support authorized by RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 in encouraging and effectuating the adoption of hard to place children. In so doing the secretary shall, however, maintain the confidentiality required by law with respect to particular adoptions.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 144. Section 14, chapter 63, Laws of 1971 ex. sess. and RCW 74.13.136 are each amended to read as follows:

Any child-caring agency or person having a child in foster care or institutional care and wishing to recommend to the secretary support of the adoption of such child as provided for in RCW ((26.32.115)) 26.33.320 and 74.13.100 through 74.13.145 may do so, and may include in its or his recommendation advice as to the appropriate level of support and any other information likely to assist the secretary in carrying out the functions vested

in the secretary by RCW ((~~26.32.115~~)) 26.33.320 and 74.13.100 through 74.13.145. Such agency may, but is not required to, be retained by the secretary to make the required preplacement study of the prospective adoptive parent or parents.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 145. Section 15, chapter 63, Laws of 1971 ex. sess. and RCW 74-13.139 are each amended to read as follows:

As used in RCW ((~~26.32.115~~)) 26.33.320 and 74.13.100 through 74-13.145 the following definitions shall apply:

(1) "Secretary" means the secretary of the department of social and health services or his designee.

(2) "Department" means the department of social and health services.

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 146. Section 17, chapter 63, Laws of 1971 ex. sess. and RCW 74-13.145 are each amended to read as follows:

RCW ((~~26.32.115~~)) 26.33.320 and 74.13.100 through 74.13.145 may be known and cited as the "Adoption Support Demonstration Act of 1971".

EXPLANATORY NOTE: RCW 26.32.115 was repealed by 1984 c 155 § 38, effective January 1, 1985. The reference to this section has been amended to refer to a later enactment, RCW 26.33.320, that contains the substance of the repealed section.

Sec. 147. Section 18, chapter 177, Laws of 1980 as amended by section 11, chapter 67, Laws of 1983 1st ex. sess. and RCW 74.46.180 are each amended to read as follows:

(1) The state shall make payment of any underpayments within thirty days after the date the preliminary or final settlement report is submitted to the contractor.

(2) A contractor found to have received either overpayments or erroneous payments under a preliminary or final settlement shall refund such payments to the state within thirty days after the date the preliminary or final settlement report is submitted to the contractor, subject to the provisions of subsections (3), (4), and (7) of this section.

(3) Within the cost centers of nursing services and food, all savings resulting from the respective allowable costs being lower than the respective reimbursement rate paid to the contractor during the report period shall be refunded. In computing a preliminary or final settlement, savings in a cost center may be shifted to cover a deficit in another cost center up to the amount of any savings: PROVIDED, That not more than twenty percent of the rate in a cost center may be shifted into that cost center and no shifting may be made into the property cost center.

(4) Within the cost centers of administration and operations and property, the contractor shall retain at least fifty percent, but not more than seventy-five percent, of any savings resulting from the respective, audited, allowable costs being lower than the respective reimbursement rates paid to the contractor during the report period multiplied by the number of authorized medical care client days in which said rates were in effect. The secretary, by rule and regulation, shall establish the basis for the specific percentages of savings to the contractors. Such rules and regulations may provide for differences in the percentages allowed for each cost center to individual facilities based on performance measures related to administrative efficiency.

(5) All allowances provided by RCW (~~(74.46.525(2) and~~) 74.46.530 shall be retained by the contractor. Any industrial insurance dividend or premium discount under RCW 51.16.035 shall be retained by the contractor to the extent that such dividend or premium discount is attributable to the contractor's private patients.

(6) In the event the contractor fails to make repayment in the time provided in subsection (2) of this section, the department shall either:

(a) Deduct the amount of refund due plus assessment of interest, as determined by the secretary, from payment amounts due the contractor; or

(b) In the instance the contract has been terminated, (i) deduct the amount of refund due plus an assessment of interest, determined by the secretary, from any payments due; or (ii) assess the amount due plus interest, as determined by the secretary, on the amount due.

(7) Where the facility is pursuing timely-filed judicial or administrative remedies in good faith regarding settlement issues, the contractor need not refund nor shall the department withhold from the facility current payment amounts the department claims to be due from the facility but which are specifically disputed by the contractor. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility shall make payment of such amounts due plus interest accrued from the date of filing of the appeal, as payable on judgments, within sixty days of the date such decision is made.

EXPLANATORY NOTE: RCW 74.46.525 expired December 31, 1984. The reference to this section has been deleted.

Sec. 148. Section 52, chapter 177, Laws of 1980 and RCW 74.46.520 are each amended to read as follows:

The rates determined in RCW (~~(74.46.480)~~) 74.46.481 through 74.46.510 shall be adjusted by the department utilizing appropriate indices or other measures of economic trends and conditions projected for the ensuing year.

EXPLANATORY NOTE: RCW 74.46.480 was repealed by 1983 1st ex.s. c 67 § 48, effective July 1, 1983. The reference to this section has been amended to refer to a later enactment, RCW 74.46.481, that contains the substance of the repealed section.

Sec. 149. Section 76, chapter 177, Laws of 1980 and RCW 74.46.760 are each amended to read as follows:

(1) When a recipient has died, the contractor shall obtain a receipt from the next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the department shall be contacted in writing within seven days for assistance in the release of the money held in trust.

(2) A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(3) Where the recipient leaves the facility without authorization and his or her whereabouts are not known:

(a) The facility will make a reasonable attempt to locate the missing recipient using the agencies of state or local government;

(b) If the recipient cannot be located after ninety days, the facility shall notify the department of revenue of the existence of abandoned property, pursuant to chapter ~~((63.28))~~ 63.29 RCW. The facility will be required to deliver to the department of revenue the balance of the recipient's trust fund account within twenty days following such notification.

EXPLANATORY NOTE: Chapter 63.28 RCW was repealed by 1983 c 179 § 46, effective June 30, 1983. The reference to this chapter has been amended to refer to a later enactment, chapter 63.29 RCW, that contains the substance of the repealed chapter.

Sec. 150. Section 3, chapter 183, Laws of 1975 1st ex. sess. as last amended by section 155, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.44.100 are each amended to read as follows:

As used in this chapter:

(1) "Case areas" means those areas of the Western district of Washington and in the adjacent offshore waters which are within the jurisdiction of the state of Washington, as defined in *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and in *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976), or an area in which fishing rights are affected by court decision in a manner consistent with the above-mentioned decisions;

(2) "Program" means the program established under RCW 75.44.100 through ~~((75.44.160))~~ 75.44.150.

EXPLANATORY NOTE: RCW 75.44.160 was repealed by 1984 c 67 § 2. The reference to this section has been amended to refer to RCW 75.44.150, the immediately preceding section in the reference.

Sec. 151. Section 3, chapter 45, Laws of 1970 ex. sess. as last amended by section 372, chapter 7, Laws of 1984 and by section 18, chapter 125, Laws of 1984 and RCW 80.50.030 are each reenacted and amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined under RCW 43.03.040. The chairman is a "state employee" for the purposes of chapter 42.18 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (a) Department of ecology;
- (b) Department of fisheries;
- (c) Department of game;
- (d) Department of parks and recreation;
- (e) Department of social and health services;
- (f) State energy office;
- (g) Department of commerce and economic development;
- (h) Utilities and transportation commission;
- (i) Office of financial management;
- (j) Department of natural resources;
- (k) Department of community development;
- (l) Department of emergency ((services)) management;
- (m) Department of agriculture;
- (n) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or

designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

EXPLANATORY NOTE: (1) The department of emergency services was redesignated the department of emergency management by 1984 c 38 § 1; see RCW 38.52.005.

(2) This section was amended by 1984 c 7 § 372 and by 1984 c 125 § 18, each without reference to the other. Both amendments were incorporated in the publication of this section pursuant to RCW 1.12.025(2), and the section is now being reenacted.

Sec. 152. Section 81.80.300, chapter 14, Laws of 1961 as last amended by section 1, chapter 63, Laws of 1977 ex. sess. and RCW 81.80.300 are each amended to read as follows:

The commission shall prescribe an identification cab card and identification decal or stamp or number which must be carried within the cab of each motive power vehicle of each motor carrier required to have a permit under this chapter.

The identification cab card and the decal or stamp or number provided for herein may be in such form and contain such information as required by the commission.

It shall be unlawful for any "common carrier" or "contract carrier" to operate any motor vehicle within this state unless there is carried within the cab of the motive power vehicle, either operating as a solo vehicle or in combination with trailers, the identification cab card and decal or stamp or number required by this section and the payment by such carrier of a total fee of three dollars for each such decal or stamp or number plus the applicable gross weight fee prescribed by RCW 81.80.320: PROVIDED, That as to equipment operated between points in this state and points outside the state exclusively in interstate commerce, and as to equipment operated between points in this state and points outside the state in interstate commerce as well as points within this state in intrastate commerce, the commission may adopt rules and regulations specifying an alternative schedule of fees to that specified in RCW 81.80.320 as it may find to be reasonable and specifying the method of evidencing payment of such fees.

The commission may adopt rules and regulations imposing a reduced schedule of fees for short term operations, requiring reports of carriers, and imposing such conditions as the public interest may require with respect to the operation of such vehicles.

The commission shall not be required to collect the excise tax prescribed by RCW ((82.44.070)) 82.44.020 for any fees collected under this chapter.

The decal or stamp or number required herein shall be issued annually under the rules and regulations of the commission, and shall be affixed to the identification cab card required by this section not later than February 1st of each year: PROVIDED, That such decal or stamp or number may be issued for the ensuing calendar year on and after the first day of November preceding and may be used from the date of issue until February 1st of the succeeding calendar year for which the same was issued.

It shall be unlawful for the owner of said permit, his agent, servant or employee, or any other person to use or display any identification cab card and decal or stamp or number, the permit number or other insignia of authority from the commission after said permit has expired, been canceled or disposed of, or to operate any vehicle under permit without such identification cab card and decal or stamp or number.

The commission shall collect all fees provided in this section, and all such fees shall be deposited in the state treasury to the credit of the public service revolving fund.

EXPLANATORY NOTE: RCW 82.44.070 was repealed by 1983 c 26 § 5. The reference to this section has been amended to refer to a later enactment, RCW 82-44.020, that contains the substance of the repealed section.

Sec. 153. Section 81.80.318, chapter 14, Laws of 1961 as last amended by section 3, chapter 170, Laws of 1967 and RCW 81.80.318 are each amended to read as follows:

Any motor carrier engaged in this state in the casual or occasional carriage of property in interstate or foreign commerce, who would otherwise be subject to all of the requirements of this chapter, shall be authorized to engage in such casual or occasional carriage, upon securing from the commission a single trip transit permit, valid for a period not exceeding ten days, which shall authorize a one way trip in transporting property for compensation between points in the state of Washington and points in other states, territories, or foreign countries.

No identification cab cards and decals or stamps or numbers and no regulatory fees other than as provided in this section shall be required for such permit. The permit must be carried in the cab of the motive power vehicle.

The permit shall be issued upon application to the commission or any of its duly authorized agents upon payment of a fee of ten dollars and the furnishing of proof of possession of public liability and property damage insurance in limits of at least twenty-five thousand dollars, for injury or death of any one person, and subject to such limit as to any one person, for one hundred thousand dollars for injury or death of all persons caused by any one accident and for ten thousand dollars for all damages to property caused by one accident. Such proof may consist of an insurance policy or a certificate of insurance.

The commission shall not be required to collect the excise tax prescribed by RCW (~~(82.44.070)~~) 82.44.020 on any vehicle subject only to the payment of this fee.

EXPLANATORY NOTE: RCW 82.44.070 was repealed by 1983 c 26 § 5. The reference to this section has been amended to refer to a later enactment, RCW 82.44.020, that contains the substance of the repealed section.

Sec. 154. Section 82.04.460, chapter 15, Laws of 1961 as last amended by section 28, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.460 are each amended to read as follows:

(1) Any person rendering services taxable under RCW 82.04.290 and maintaining places of business both within and without this state which contribute to the rendition of such services shall, for the purpose of computing tax liability under RCW 82.04.290, apportion to this state that portion of his gross income which is derived from services rendered within this state. Where such apportionment cannot be accurately made by separate accounting methods, the taxpayer shall apportion to this state that proportion of his total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.

(2) Notwithstanding the provision of subsection (1) of this section, persons doing business both within and without the state who receive gross income from service charges, as defined in RCW 63.14.010(~~((8))~~) (relating to amounts charged for granting the right or privilege to make deferred or installment payments) or who receive gross income from engaging in business as financial institutions within the scope of chapter 82.14A RCW (relating to city taxes on financial institutions) shall apportion or allocate gross income taxable under RCW 82.04.290 to this state pursuant to rules promulgated by the department consistent with uniform rules for apportionment or allocation developed by the states.

(3) The department shall by rule provide a method or methods of apportioning or allocating gross income derived from sales of telephone services taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. The rules shall be, so far as feasible, consistent with the methods of apportionment contained in this section and shall require the consideration of those facts, circumstances, and apportionment factors as will result in an equitable and constitutionally permissible division of the services.

EXPLANATORY NOTE: An amendment to RCW 63.14.010 by 1984 c 280 § 1 renumbered subsection (8) of that section. To avoid ambiguity, the subsection reference has been deleted.

Sec. 155. Section 49, chapter 3, Laws of 1983 2nd ex. sess. as amended by section 4, chapter 250, Laws of 1984 and RCW 82.49.070 are each amended to read as follows:

(1) Any county may impose a tax, by ordinance or resolution, upon the privilege of using a vessel taxable under RCW 82.49.010 which is moored or stored in the county, if the population of the unincorporated area of the county together with the population of the cities which are parties to an interlocal agreement under chapter 39.34 RCW equal or exceed two-thirds of the total population of the county: PROVIDED, That such agreement shall take into consideration any marine patrols provided as of June 30, 1983, and may provide compensation for those municipal corporations in the county which are parties to the agreement and which provide boating safety services, including fire suppression and rescue services only as related to boating safety. The annual amount of the tax shall be up to fifty cents per foot of the vessel per calendar year, or part thereof.

(2) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year.

~~((4))~~ (3) The moneys collected under this section shall be distributed by the county monthly to the parties to the interlocal agreement, and other municipal corporations entitled to compensation, according to the terms of the agreement. Moneys collected under this section shall be used only for administration and enforcement of boating safety, search and rescue operations concerning boating, and boating patrols.

EXPLANATORY NOTE: Subsection (3) of this section, 1983 2nd ex.s. c 3 § 49, was vetoed by the governor. The remaining subsection has been renumbered accordingly.

Sec. 156. Section 9, chapter 169, Laws of 1974 ex. sess. as amended by section 10, chapter 62, Laws of 1983 1st ex. sess. and RCW 84.40.405 are each amended to read as follows:

The department of revenue shall promulgate such rules and regulations, and prescribe such procedures as it deems necessary to carry out RCW ~~((82.04.442 through))~~ 82.04.444, 82.04.445, 84.36.470, ~~((84.40-400;))~~ 84.36.473, 84.36.475, 84.36.477, 84.09.080, and 84.52.015, and this section.

EXPLANATORY NOTE: RCW 82.04.442 and 84.40.400 were repealed by 1983 1st ex.s. c 62 § 14, effective January 1, 1984. The reference to these sections has been deleted. The reference in this section has been amended to refer to the remaining valid sections.

NEW SECTION. Sec. 157. RCW 47.56.620 is decodified.

EXPLANATORY NOTE: RCW 47.56.620, which was enacted to appropriate money to study the feasibility of constructing a Naches Pass tunnel, has no present effect or vitality. Therefore, it has been decodified.

Passed the Senate January 21, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 8

[Senate Bill No. 3074]

TRUST ACT—PARTNERSHIPS—TECHNICAL CORRECTIONS

AN ACT Relating to partnerships; making technical corrections to the Washington Trust Act of 1984; reenacting and amending RCW 25.04.150; reenacting RCW 25.04.020; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 25.04.020, chapter 15, Laws of 1955 as amended by section 171, chapter 149, Laws of 1984 and RCW 25.04.020 are each reenacted to read as follows:

In this chapter:

"Court" includes every court and judge having jurisdiction in the case;

"Business" includes every trade, occupation, or profession;

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

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

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

"Real property" includes land and any interest or estate in land.

Sec. 3. Section 25.04.150, chapter 15, Laws of 1955 as amended by section 172, chapter 149, Laws of 1984 and RCW 25.04.150 are each reenacted and amended to read as follows:

All partners are liable:

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

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

(3) Except that ((the liability of a trustee or personal representative acting as a partner is limited as provided in RCW 11.98.110(2))):

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

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

(c) If a fiduciary is liable, the fiduciary is entitled to indemnification first from the partnership assets and second from the trust or estate.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 23, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 9

[Senate Bill No. 3075]

TRUST ACT—DECLARATORY JUDGMENTS—TECHNICAL CORRECTIONS

AN ACT Relating to declaratory judgments; making technical corrections to the Washington Trust Act of 1984; reenacting RCW 7.24.050; repealing RCW 7.24.040; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 5, chapter 113, Laws of 1935 as amended by section 3, chapter 149, Laws of 1984 and RCW 7.24.050 are each reenacted to read as follows:

The enumeration in RCW 7.24.020 and 7.24.030 does not limit or restrict the exercise of the general powers conferred in RCW 7.24.010, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

NEW SECTION. Sec. 3. Section 4, chapter 113, Laws of 1935 and RCW 7.24.040 are each repealed.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 23, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 10

[Senate Bill No. 3077]

TRUST ACT—JOINT TENANCIES—TECHNICAL CORRECTIONS

AN ACT Relating to joint tenancies; making technical corrections to the Washington Trust Act of 1984; reenacting and amending RCW 64.28.040; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 174, chapter 149, Laws of 1984 and RCW 64.28.040 are each reenacted and amended to read as follows:

(1) Joint tenancy interests held in the names of a husband and wife, whether or not in conjunction with others, are presumed to be their community property, the same as other property held in the name of both husband and wife. Any such interest passes to the survivor of the husband and wife as provided for property held in joint tenancy, but in all other respects the interest is treated as community property.

(2) This section applies as of January 1, 1985, to all existing or subsequently created joint tenancies.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 24, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 11

[Senate Bill No. 3078]

TRUST ACT—STATUTE OF LIMITATIONS—TECHNICAL CORRECTIONS

AN ACT Relating to statutes of limitation; making technical corrections to the Washington Trust Act of 1984; reenacting RCW 4.16.110 and 4.16.370; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 5, page 364, Laws of 1854 as last amended by section 1, chapter 149, Laws of 1984 and RCW 4.16.110 are each reenacted to read as follows:

Within one year an action shall be brought against a sheriff, or other officer for the escape of a prisoner arrested or imprisoned on civil process.

Sec. 3. Section 2, chapter 149, Laws of 1984 and RCW 4.16.370 are each reenacted to read as follows:

The statute of limitations for actions against a personal representative or trustee for breach of fiduciary duties is as set forth in RCW 11.96.060.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 24, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 12

[Substitute Senate Bill No. 3131]

DREDGE SPOILS FROM CERTAIN RIVERS IN THE MOUNT ST. HELENS REGION

AN ACT Relating to dredge spoil; and amending RCW 79.90.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 22, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.90.160 are each amended to read as follows:

The legislature finds and declares that, due to the extraordinary volume of material washed down onto state-owned beds and shorelands in the Toutle river, Coweeman river, and portions of the Cowlitz river, the dredge spoils placed upon adjacent privately owned property in such areas, if further disposed, will be of nominal value to the state and that it is in the best interests of the state to allow further disposal without charge.

All dredge spoil or materials removed from the state-owned beds and shores of the Toutle river, Coweeman river and that portion of the Cowlitz river from two miles above the confluence of the Toutle river to its mouth deposited on adjacent private lands during the years 1980 through December 31, ((+1985)) 1990, as a result of dredging of these rivers for navigation and flood control purposes may be sold, transferred, or otherwise disposed of by owners of such lands without the necessity of any charge by the department of natural resources and free and clear of any interest of the department of natural resources of the state of Washington.

Passed the Senate February 5, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 13

[Senate Bill No. 3270]

PUBLIC RETIREMENT—TAX DEFERRAL BENEFITS

AN ACT Relating to retirement from public service; amending RCW 41.04.445, 41.04.450, 41.26.030, and 41.40.010; reenacting and amending RCW 41.32.010; adding a new section to chapter 41.04 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984.

Sec. 2. Section 2, chapter 227, Laws of 1984 and RCW 41.04.445 are each amended to read as follows:

(1) This section applies to all members without exception who are:

(a) Judges under the retirement system established under chapter 2.10 or 2.12 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall (~~pay~~) pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) RCW 41.32.260(2);

(d) RCW 41.32.350;

(e) RCW 41.32.775;

(f) RCW 41.40.330 (1) and (3);

(g) RCW 41.40.650; and

(h) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system (~~paid~~) picked up by the employer.

(4) All member contributions to the respective retirement system (~~paid~~) picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems.

Sec. 3. Section 3, chapter 227, Laws of 1984 and RCW 41.04.450 are each amended to read as follows:

(1) Employers of those members under chapters 41.26 and 41.40 RCW who are not specified in RCW 41.04.445 may choose to implement the employer ~~((payment))~~ pick up of all member contributions without exception under RCW 41.26.080(1), 41.26.450, 41.40.330(1), and 41.40.650. If the employer does so choose, the employer and members shall be subject to the ~~((same))~~ conditions and limitations of RCW 41.04.445 (3), (4), and (5) and section 4 of this 1985 act.

(2) An employer exercising the option under this section may ~~((further))~~ later choose to withdraw from and/or reestablish the ~~((provisions of RCW 41.04.445))~~ employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems.

NEW SECTION. Sec. 4. A new section is added to chapter 41.04 RCW to read as follows:

The following two conditions apply to the employer pick up of member contributions authorized under RCW 41.04.445 (section 2, chapter 227, Laws of 1984):

(1) The retirement contributions, although designated as member contributions, will be picked up by the employer, as provided in RCW 41.04.445 (section 2, chapter 227, Laws of 1984) in lieu of contributions by the member.

(2) No retirement system member will have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

Sec. 5. Section 3, chapter 209, Laws of 1969 ex. sess. as last amended by section 83, chapter 230, Laws of 1984 and RCW 41.26.030 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means the legislative authority of

any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if such individual has five years previous membership in the retirement system established in chapter 41.20 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply.

(4) "Fire fighter" means:

(a) any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such;

(b) anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) supervisory fire fighter personnel;

(d) any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(e) the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter

amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(f) any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fireman or fire fighter; and

(g) any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system and two employer representatives as provided for in RCW 41.26.050. The retirement board shall be called the Washington law enforcement officers' and fire fighters' retirement board and may enter in legal relationships in that name. Any legal relationships entered into in that name prior to the adoption of this 1972 amendatory act are hereby ratified.

(6) "Surviving spouse" means the surviving widow or widower of a member. The word shall not include the divorced spouse of a member.

(7) "Child" or "children" whenever used in this chapter means every natural born child and stepchild where that relationship was in existence prior to the date benefits are payable under this chapter, posthumous child, child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter, and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while unmarried, and either under the age of eighteen years or mentally or physically handicapped as determined by the retirement board except a handicapped person in the full time care of a state institution. A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) above.

(11) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) (a) "Final average salary" for persons who establish membership in the retirement system on or before September 30, 1977, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for persons who establish membership in the retirement system on or after October 1, 1977, means the monthly average of the member's basic salary for the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13) (a) "Basic salary" for persons who establish membership in the retirement system on or before September 30, 1977, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, ~~((as reported by the employer on the wage and tax statement submitted to the federal internal revenue service;))~~ and shall include wages

and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That in any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) the basic salary the member would have received had such member not served in the legislature; or

(ii) such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under subparagraph (i) of this subsection is greater than basic salary under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(14) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. In addition to the foregoing, for members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall include (i) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (ii) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: PROVIDED, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn

from the prior system by such member, as a law enforcement officer or fire fighter: PROVIDED FURTHER, That if such member's prior service is not creditable because, although employed in a position covered by a prior pension act, such member had not yet become a member of the pension system governed by such act, such member shall be credited with such prior service as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to the employer's contributions which would have been required under the prior act when such service was rendered if the member had been a member of such system during such period: AND PROVIDED FURTHER, That where a member is employed by two employers at the same time, he shall only be credited with service to one such employer for any month during which he rendered such dual service.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110 for persons who establish membership in the retirement system on or before September 30, 1977.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(20) "Disability retirement" for persons who establish membership in the retirement system on or before September 30, 1977, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for persons who establish membership in the retirement system on or before September 30, 1977, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when he is injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(26) "Director" means the director of the department.

(27) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(28) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

Sec. 6. Section 1, chapter 80, Laws of 1947 as last amended by section 1, chapter 5, Laws of 1984 and by section 1, chapter 256, Laws of 1984 and RCW 41.32.010 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) (i) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years

of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district in an instructional position, for which the member receives service credit of less than one year in both of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent in preparation for and in classroom instruction. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, (~~as reported by the employer on the wage and tax statement submitted to the federal internal revenue service,~~) and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(i) the earnable compensation the member would have received had such member not served in the legislature; or

(ii) such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(18) "Pension" means the moneys payable per year during life from the pension reserve fund.

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(22) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(24) "Regular interest" means such rate as the director may determine.

(25) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

(26) "Retirement system" means the Washington state teachers' retirement system.

(27) (a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive service credit for the time spent in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32-.755 through 41.32.825, who render service need not serve for ninety days to obtain membership so long as the required contribution is submitted for such ninety-day period. Where a member did not receive service credit under RCW 41.32.775 through 41.32.825 due to the ninety-day period in RCW 41.32.240 the member may receive service credit for that period so long as the required contribution is submitted for the period. Anyone entering membership on or after October 1, 1977, and prior to July 1, 1979, shall have until June 30, 1980, to make the required contribution in one lump sum.

(28) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average earnable compensation of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(31) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Retirement board" means the director of retirement systems.

Sec. 7. Section 1, chapter 274, Laws of 1947 as last amended by section 1, chapter 69, Laws of 1983 and RCW 41.40.010 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Retirement board" means the board provided for in this chapter and chapter 41.26 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now or hereafter amended; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least

forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.120.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8) (a) "Compensation earnable" for persons who establish membership in the retirement system on or before September 30, 1977, means salaries or wages earned during a payroll period for personal services and where

the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That if a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee.

(b) "Compensation earnable" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, (~~as reported by the employer on the wage and tax statement submitted to the federal internal revenue service;~~) and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(i) the compensation earnable the member would have received had such member not served in the legislature; or

(ii) such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means periods of employment rendered to any employer for which compensation is paid, and

includes time spent in office as an elected or appointed official of an employer. Full time work for seventy hours or more in any given calendar month shall constitute one month of service. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

Members employed by the state school for the blind, or the state school for the deaf shall receive twelve months of service for each contract year or school year of employment commencing on or after June 15, 1979.

Each member who is employed by an institution of higher education or a community college shall receive twelve months of service for each academic year of employment commencing on or after June 15, 1979, in which the member makes member contributions under this chapter for each month of such academic year, and the member is employed in a position which is restricted as to duration by the employer to the academic year.

Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: **PROVIDED**, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system: **PROVIDED FURTHER**, That an individual shall receive no more than a total of twelve months of service credit during any calendar year: **PROVIDED FURTHER**, That where an individual is employed by two or more employers the individual shall only receive one months service credit during any calendar month in which multiple service for seventy or more hours is rendered.

During the regular contract year or school year of employment, members employed by school districts shall receive service credit in any month in which the school is closed for a vacation period of five calendar days or more. The member shall have been employed or on paid leave of absence for at least three and one-half hours each day the school was open or shall have received compensation for service averaging at least three and one-half hours for each such day.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which compensation earnable is earned for ninety or more hours per calendar month.

During the regular contract year or school year of employment, members employed by school districts shall receive service credit in any month in which the school is closed for a vacation period of five calendar days or more. The member shall have been employed or on paid leave of absence for at least four and one-half hours each day the school was open or shall have

received compensation for service averaging at least four and one-half hours for each such day.

Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

Members employed by school districts, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges shall receive twelve months of service for each contract year or school year of employment.

Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

A member shall receive a total of not more than twelve months of service for such calendar year: PROVIDED, That when an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(10) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(11) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: PROVIDED, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the employee or his employer, except as qualified by RCW 41.40.120: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total

amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(12) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(13) "Regular interest" means such rate as the director may determine.

(14) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(15) (a) "Average final compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service for which service credit is allowed; or if the member has less than two years of service then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average compensation earnable of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(16) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(17) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(18) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(19) "Retirement allowance" means the sum of the annuity and the pension.

(20) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.120.

(21) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(22) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(23) "Eligible position" means:

(a) Any position which normally requires five or more uninterrupted months of service a year for which regular compensation is paid to the occupant thereof;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(24) "Ineligible position" means any position which does not conform with the requirements set forth in subdivision (23).

(25) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(26) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(27) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(28) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(29) "Director" means the director of the department.

(30) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(31) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

NEW SECTION. Sec. 8. This act shall have retrospective application to September 1, 1984.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 7, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 2, 1985.

Filed in Office of Secretary of State April 2, 1985.

CHAPTER 14

[Engrossed Substitute House Bill No. 386] SUPPLEMENTAL OPERATING BUDGET

AN ACT Relating to state agencies; amending section 2, chapter 76, Laws of 1983 1st ex. sess. as amended by section 101, chapter 285, Laws of 1984 (uncodified); amending section 3, chapter 76, Laws of 1983 1st ex. sess. as amended by section 102, chapter 285, Laws of 1984 (uncodified); amending section 15, chapter 76, Laws of 1983 1st ex. sess. as amended by section 114, chapter 285, Laws of 1984 (uncodified); amending section 17, chapter 76, Laws of 1983 1st ex. sess. (uncodified); amending section 24, chapter 76, Laws of 1983 1st ex. sess. as amended by section 118, chapter 285, Laws of 1984 (uncodified); amending section 27, chapter 76, Laws of 1983 1st ex. sess. as amended by section 119, chapter 285, Laws of 1984 (uncodified); amending section 36, chapter 76, Laws of 1983 1st ex. sess. (uncodified); amending section 37, chapter 76, Laws of 1983 1st ex. sess. as amended by section 126, chapter 285, Laws of 1984 (uncodified); amending section 65, chapter 76, Laws of 1983 1st ex. sess. as amended by section 214, chapter 285, Laws of 1984 (uncodified); amending section 71, chapter 76, Laws of 1983 1st ex. sess. as amended by section 219, chapter 285, Laws of 1984 (uncodified); amending section 89, chapter 76, Laws of 1983 1st ex. sess. as amended by section 307, chapter 285, Laws of 1984 (uncodified); amending section 90, chapter 76, Laws of 1983 1st ex. sess. as amended by section 308, chapter 285, Laws of 1984 (uncodified); amending section 310, chapter 285, Laws of 1984 (uncodified); amending section 94, chapter 76, Laws of 1983 1st ex. sess. as amended by section 402, chapter 285, Laws of 1984 (uncodified); amending section 97, chapter 76, Laws of 1983 1st ex. sess. as amended by section 502, chapter 285, Laws of 1984 (uncodified); amending section 103, chapter 76, Laws of 1983 1st ex. sess. as amended by section 505, chapter 285, Laws of 1984 (uncodified); amending section 104, chapter 76, Laws of 1983 1st ex. sess. as amended by section 506, chapter 285, Laws of 1984 (uncodified); amending section 126, chapter 76, Laws of 1983 1st ex. sess. as amended by section 524, chapter 285, Laws of 1984 (uncodified); amending section 134, chapter 76, Laws of 1983 1st ex. sess. as amended by section 601, chapter 285, Laws of 1984 (uncodified); amending section 141, chapter 76, Laws of 1983 1st ex. sess. (uncodified); creating new sections; repealing section 51, chapter 76, Laws of 1983 1st ex. sess., section 201, chapter 285, Laws of 1984 (uncodified); repealing section 53, chapter 76, Laws of 1983 1st ex. sess., section 203, chapter 285, Laws of 1984 (uncodified); repealing section 54, chapter 76, Laws of 1983 1st ex. sess., section 204, chapter 285, Laws of 1984 (uncodified); repealing section 55, chapter 76, Laws of 1983 1st ex. sess., section 205, chapter 285, Laws of 1984 (uncodified); repealing section 56, chapter 76, Laws of 1983 1st ex. sess., section 206, chapter 285, Laws of 1984 (uncodified); repealing section 57, chapter 76, Laws of 1983 1st ex. sess., section 207, chapter 285, Laws of 1984 (uncodified); repealing section 58, chapter 76, Laws of 1983 1st ex. sess. (uncodified); repealing section 59, chapter 76, Laws of 1983 1st ex. sess., section 208, chapter 285, Laws of 1984 (uncodified); repealing section 60, chapter 76, Laws of 1983 1st ex. sess., section 209, chapter 285, Laws of 1984 (uncodified); repealing section 61, chapter 76, Laws of 1983 1st ex. sess., section 210, chapter 285, Laws of 1984 (uncodified); repealing section 62, chapter 76, Laws of 1983 1st ex. sess., section 211, chapter 285, Laws of 1984 (uncodified); repealing section 63, chapter 76, Laws of 1983 1st ex. sess., section 212, chapter 285, Laws of 1984 (uncodified); repealing section 64, chapter 76, Laws of 1983 1st ex. sess., section 213, chapter 285, Laws of 1984 (uncodified); making appropriations; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A supplemental budget as set forth in this act is hereby adopted and, subject to the provisions set forth in this act, the several amounts specified in this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be disbursed for salaries, wages, and other expenses of the designated agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1983, and ending June 30, 1985, except as otherwise provided, out of the several funds of the state hereinafter named, and making other appropriations.

PART I
GENERAL GOVERNMENT

Sec. 101. Section 2, chapter 76, Laws of 1983 1st ex. sess. as amended by section 101, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

General Fund Appropriation \$ ((22,387,000))
27,035,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$400,000 or the portion thereof that is determined necessary by the house of representatives shall be allocated for, but not limited to, providing furnishings and equipment for new hearing room and office renovations.
- (2) \$25,000 is provided solely for the joint committee on science and technology for the purposes of the production of an environmental study on the state-leased low-level radioactive waste site at Hanford, Washington.

Sec. 102. Section 3, chapter 76, Laws of 1983 1st ex. sess. as amended by section 102, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE SENATE

General Fund Appropriation \$ ((20,044,000))
23,044,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$185,000 or the portion thereof that is determined necessary by the senate shall be allocated for, but not limited to, providing furnishings and equipment for new hearing room and office renovations.
- (2) \$25,000 is provided solely for the joint committee on science and technology for the environmental study described in section 2(2) of this act.

Sec. 103. Section 15, chapter 76, Laws of 1983 1st ex. sess. as amended by section 114, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

General Fund Appropriation	\$	((6,685,000))
		<u>6,734,000</u>
General Fund—Archives and Records Management Account Appropriation	\$	1,310,000
Total Appropriation	\$	((7,995,000))
		<u>8,044,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$789,000 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures: PROVIDED, That the secretary of state review, audit and approve as accurate the costs incurred by the counties.

(2) \$1,912,000 is provided solely to reimburse counties for the state's share of election costs attributable under RCW 29.13.045 to the 1983 special primary and vacancy election for the office of United States Senator: PROVIDED, That the secretary of state review, audit, and approve as accurate the costs incurred by the counties.

(3) \$1,558,000 is provided solely for the verification of initiative and referendum petitions and the maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

Sec. 104. Section 17, chapter 76, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS

General Fund Appropriation	\$	((124,000))
		<u>133,000</u>

NEW SECTION. Sec. 105. FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund Appropriation	\$	20,939,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit by the state treasurer in the common school construction fund at the direction of the director of financial management if and to the extent that the office of financial management determines that sufficient revenue is available to ensure that the state general fund ending balance is positive.

Sec. 106. Section 24, chapter 76, Laws of 1983 1st ex. sess. as amended by section 118, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

General Fund Appropriation	\$	60,000
Department of Personnel Service Fund Appropriation	\$	((8,753,000))

	<u>8,813,000</u>
State Employees' Insurance Fund Appropria-	
tion	\$ 1,542,000
Total Appropriation	\$ ((+0,355,000))
	<u>10,415,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$45,000 from the department of personnel service fund is provided solely for a comparative study, jointly funded with the department of retirement systems and the higher education personnel board, of part-time employee policy and benefits. This study shall be directed to other states and representative private colleges and universities and private sector service-related enterprises as to their practices and policies for shared work, phased retirement, health care benefits, retirement allowances, and other related issues. A report shall be made to the legislature not later than December 21, 1984, containing findings and recommendations.

(2) \$60,000 of the general fund appropriation is provided solely for the department of personnel to conduct a study for the purpose of reviewing and formulating ways to implement comparable worth in accordance with chapter 75, Laws of 1983 1st ex. sess. The department shall coordinate the study with the higher education personnel board and its study on comparable worth implementation. During the course of the study, the department shall report to the joint select committee on comparable worth on the study's progress. The department shall report back to the legislature no later than January 1, 1985, with potential implementation alternatives.

(3) \$60,000 of the department of personnel service fund appropriation is provided solely for legal services for comparable worth litigation.

Sec. 107. Section 27, chapter 76, Laws of 1983 1st ex. sess. as amended by section 119, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

General Fund Appropriation	\$ ((43,054,000))
	<u>43,573,000</u>
General Fund—State Timber Tax Reserve	
Account Appropriation	\$ 2,851,000
Motor Vehicle Fund Appropriation	\$ 115,000
Total Appropriation	\$ ((46,020,000))
	<u>46,539,000</u>

The appropriations in this section are subject to the following conditions and limitations: If the state timber tax reserve account is abolished and a timber excise tax account is established, the appropriation from the state timber tax reserve account shall be made from the timber excise tax

account to the extent that moneys in the state timber tax reserve account are insufficient for the appropriation.

Sec. 108. Section 36, chapter 76, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE CEMETERY BOARD

General Fund—Cemetery Account Appropriation	\$	((74,000))
		<u>86,000</u>

Sec. 109. Section 37, chapter 76, Laws of 1983 1st ex. sess. as amended by section 36, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE HORSE RACING COMMISSION

Horse Racing Commission Fund Appropriation	\$	((3,480,000))
		<u>3,063,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) If there are more than seven hundred two racing days during the fiscal biennium ending June 30, 1985, the governor is authorized to allocate such additional moneys from the horse racing commission fund as may be required.

(2) \$15,076 is provided solely for special audit of Yakima Meadows costs.

**PART II
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF CORRECTIONS

General Fund Appropriation—State	\$	277,601,000
General Fund—Institutional Impact Account		
Appropriation	\$	865,000
General Fund Appropriation—Federal	\$	700,000
General Fund—Charitable, Educational Pen- and Reformatory Institutions Account		
Appropriation	\$	1,053,000
Total Appropriation	\$	280,219,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,153,000 from the general fund appropriation is provided solely for the treatment alternatives to street crime programs in King, Pierce, Snohomish, Spokane, Clark, and Yakima counties.

(2) \$1,053,000 from the general fund charitable, educational penal and reformatory institutions account appropriation is provided solely for an environmental impact statement and design work for the McNeil Island ferry slip.

(3) It is the intent of the legislature that the appropriations in this section be spent as provided in this subsection. The department may spend money appropriated in this section in a manner other than as provided in this subsection only after notifying the ways and means committees of the senate and house of representatives of the planned deviation from this subsection. The amounts appropriated by this section and specified in this subsection represent the total spending authority for the department for the 1983-85 biennium and reflect the amounts previously appropriated to the department by the section repealed by section 202 of this act.

	GENERAL FUND—	
	STATE	TOTAL
COMMUNITY SERVICES		
Treatment Alternatives to Street Crime	2,153,000	2,153,000
Community Diversion	236,000	236,000
Crime Victims and Witness Notification	175,000	175,000
Probation and Parole	25,216,000	25,216,000
Intensive Parole	3,985,000	3,985,000
Work Release Facilities	20,612,000	20,612,000
State Directors Office	873,000	873,000
Subtotal	53,250,000	53,250,000
INSTITUTIONAL SERVICES		
Correctional Facilities Operations	205,571,000	206,271,000
McNeil Island Ferry Slip		1,053,000
Subtotal	205,571,000	207,324,000
ADMINISTRATION		
Headquarters	13,850,000	13,850,000
One Time Institutional Impact Claims		865,000
Subtotal	13,850,000	14,715,000
INSTITUTIONAL INDUSTRIES		
State Subsidy	4,930,000	4,930,000
Subtotal	4,930,000	4,930,000
Total	\$ 277,601,000	\$ 280,219,000

NEW SECTION. Sec. 202. Section 51, chapter 76, Laws of 1983 1st ex. sess., section 201, chapter 285, Laws of 1984 (uncodified) is repealed.

NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

General Fund Appropriation—State	\$	1,731,230,000
General Fund Appropriation—Federal	\$	1,250,585,000
General Fund Appropriation—Local	\$	5,394,000
General Fund Appropriation—State and Local Improvements Revolving Account— Water supply facilities: Appropriated pursuant to chapter 128, Laws of 1972 ex. sess. (Referendum 27); chapter 258, Laws of 1979 ex. sess. (chapter 43.99D RCW); and chapter 234, Laws of 1979 ex. sess. (Referendum 38)	\$	20,000,000
General Fund Appropriation—State and Local Improvements Revolving Account— Water supply facilities: Appropriated pursuant to chapter 128, Laws of 1972 ex. sess. (Referendum 27); chapter 258, Laws of 1979 ex. sess. (chapter 43.99D RCW); and chapter 234, Laws of 1979 ex. sess. (Referendum 38)—Reappropriation	\$	21,826,000
General Fund—Institutional Impact Account Appropriation	\$	75,000
Total Appropriation	\$	3,029,110,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Up to \$992,000 of the juvenile rehabilitation institutional services funds may be expended to erect fences at Green Hill and Maple Lane schools.

(2) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility determinations are consistent with statutory requirements and are based on clear, objective medical information.

(a) The process implementing such medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontradicted medical opinion must set forth clear and convincing reasons for doing so.

(b) Recipients of general assistance who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation.

(3) The department of social and health services shall continue the program of aid to families with dependent children for two-parent families through June 30, 1985.

(4) \$289,000, of which \$261,000 is from the general fund—state appropriation, is provided solely to increase the safety and quality of care of children in level 2 and level 3 children's group homes.

(5) It is the intent of the legislature that the appropriations in this section be spent as provided in this subsection. The department may spend money appropriated in this section in a manner other than as provided in this subsection only after notifying the ways and means committees of the senate and house of representatives of the planned deviation from this subsection. The amounts appropriated by this section and specified in this subsection represent the total spending authority for the department for the 1983-85 biennium and reflect the amounts previously appropriated to the department by the sections repealed by section 204 of this act.

	GENERAL FUND—	
	STATE	TOTAL
JUVENILE REHABILITATION		
Community Services	25,210,000	25,264,000
Institutional Services	39,871,000	40,659,000
Program Support	2,395,000	2,395,000
Subtotal	67,476,000	68,318,000
MENTAL HEALTH		
Community Services	82,670,000	114,317,000
Institutional Services	107,981,000	112,311,000
Program Support	2,845,000	3,443,000
Special Projects	0	38,000
Subtotal	193,496,000	230,109,000
DEVELOPMENTAL DISABILITIES		
Community Services	51,318,000	96,862,000
Institutional Services	93,871,000	161,780,000
Program Support	3,857,000	4,441,000
Special Projects	315,000	1,506,000
Subtotal	149,361,000	264,589,000
LONG TERM CARE SERVICES		
Nursing Homes	162,484,000	322,831,000
Senior Citizens Services Act	14,112,000	14,112,000
Chore Services	18,977,000	46,695,000
Community Options Program	5,000,000	10,000,000
Older Americans Act	0	20,303,000

	GENERAL FUND— STATE	TOTAL
Adult Day Health	322,000	633,000
Nursing Home Discharge	31,000	31,000
Congregate Care	7,054,000	7,054,000
Adult Family Homes	2,663,000	2,663,000
Administration	5,930,000	10,714,000
Subtotal	216,573,000	435,036,000
INCOME ASSISTANCE		
Refugee Assistance	0	18,133,000
Aid to Families with Dependent Children—Regular	235,435,000	494,292,000
Aid to Families with Dependent Children—Employable	23,199,000	46,398,000
Supplemental Security Income Payments	39,721,000	39,721,000
General Assistance—Unemployable	65,227,000	65,683,000
General Assistance—Pregnant Women	3,425,000	3,425,000
Consolidated Emergency Assistance	4,424,000	8,848,000
Burial Assistance	2,768,000	2,768,000
Employment and Training Services	990,000	1,871,000
Work Incentive Program	279,000	2,788,000
Subtotal	375,468,000	683,927,000
COMMUNITY SOCIAL SERVICES		
Domestic Violence Program	1,128,000	1,128,000
Foster Care Payments	35,557,000	40,917,000
Child Care Payments	11,047,000	13,805,000
Adoption Support Services	4,309,000	5,388,000
Family Reconciliation Services	1,925,000	2,970,000
Interim Care	8,553,000	9,749,000
Alcoholism Grants	11,299,000	14,927,000
Detoxification	5,749,000	6,268,000
Substance Abuse Grants	3,892,000	9,072,000
Congregate Care	8,554,000	8,554,000
Refugee Services	0	3,800,000
Subtotal	92,013,000	116,578,000
MEDICAL ASSISTANCE	384,991,000	643,017,000
PUBLIC HEALTH	38,588,000	139,191,000
VOCATIONAL REHABILITATION	11,228,000	39,630,000
ADMINISTRATION & SUPPORT	55,318,000	93,153,000
COMMUNITY SERVICES ADMIN.	135,117,000	278,867,000
REVENUE COLLECTIONS	11,601,000	36,695,000

GENERAL FUND—
STATE TOTAL

Total \$ 1,731,230,000 \$ 3,029,110,000

NEW SECTION. Sec. 204. The following acts or parts of acts are each repealed:

- (1) Section 53, chapter 76, Laws of 1983 1st ex. sess., section 203, chapter 285, Laws of 1984 (uncodified);
- (2) Section 54, chapter 76, Laws of 1983 1st ex. sess., section 204, chapter 285, Laws of 1984 (uncodified);
- (3) Section 55, chapter 76, Laws of 1983 1st ex. sess., section 205, chapter 285, Laws of 1984 (uncodified);
- (4) Section 56, chapter 76, Laws of 1983 1st ex. sess., section 206, chapter 285, Laws of 1984 (uncodified);
- (5) Section 57, chapter 76, Laws of 1983 1st ex. sess., section 207, chapter 285, Laws of 1984 (uncodified);
- (6) Section 58, chapter 76, Laws of 1983 1st ex. sess. (uncodified);
- (7) Section 59, chapter 76, Laws of 1983 1st ex. sess., section 208, chapter 285, Laws of 1984 (uncodified);
- (8) Section 60, chapter 76, Laws of 1983 1st ex. sess., section 209, chapter 285, Laws of 1984 (uncodified);
- (9) Section 61, chapter 76, Laws of 1983 1st ex. sess., section 210, chapter 285, Laws of 1984 (uncodified);
- (10) Section 62, chapter 76, Laws of 1983 1st ex. sess., section 211, chapter 285, Laws of 1984 (uncodified);
- (11) Section 63, chapter 76, Laws of 1983 1st ex. sess., section 212, chapter 285, Laws of 1984 (uncodified); and
- (12) Section 64, chapter 76, Laws of 1983 1st ex. sess., section 213, chapter 285, Laws of 1984 (uncodified).

Sec. 205. Section 65, chapter 76, Laws of 1983 1st ex. sess. as amended by section 214, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REAPPROPRIATIONS

General Fund Appropriation—State	\$	((31,857,000))
		<u>34,057,000</u>
General Fund Appropriation—Federal	\$	21,875,000
General Fund Appropriation—Local	\$	66,000
Total Appropriation	\$	((53,798,000))
		<u>55,998,000</u>

The appropriations in this section are subject to the following conditions and limitations: These general fund reappropriations shall be for services and supplies not in excess of the unexpended balances of the 1981-1983 appropriations for such purposes.

Sec. 206. Section 71, chapter 76, Laws of 1983 1st ex. sess. as amended by section 219, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund Appropriation—State	\$	5,749,000
General Fund—Crime Victims Compensation		
Account Appropriation	\$	7,345,000
Accident Fund Appropriation—State	\$	((50,539,000))
		<u>50,579,000</u>
Accident Fund Appropriation—Federal	\$	51,000
Electrical License Fund Appropriation	\$	5,347,000
Medical Aid Fund Appropriation	\$	((48,354,000))
		<u>49,394,000</u>
Plumbing Certificate Fund Appropriation	\$	255,000
Pressure Systems Safety Fund Appropriation	\$	((758,000))
		<u>858,000</u>
<u>Worker and Community Right to Know Fund</u>		
Appropriation	\$	56,000
Total Appropriation	\$	((18,398,000))
		<u>119,634,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) General fund expenditures for the building and construction program together with associated indirect cost and salary increase costs shall not exceed general fund revenue from the building and construction program.

(2) Not more than \$50,000 of the accident fund appropriation and \$50,000 of the medical aid fund appropriation shall be expended for a study of the feasibility of consolidating the department's Olympia-area offices in one building, including the options of leasing, acquiring, or constructing such building. No state general fund moneys may be expended for this study.

(3) \$41,822 of the worker and community right to know fund appropriation is provided solely to reimburse the governor's emergency fund allocation.

(4) \$40,000 of the accident fund appropriation and \$40,000 of the medical aid fund appropriation are provided solely for planning services in connection with the expected development in the 1985-87 biennium of a medical services utilization analysis system.

PART III
NATURAL RESOURCES

Sec. 301. Section 89, chapter 76, Laws of 1983 1st ex. sess. as amended by section 307, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund Appropriation—State	\$	((27,065,000))
		<u>27,395,000</u>
General Fund Appropriation—Federal	\$	451,000
General Fund—ORV (Off-Road Vehicle)		
Account Appropriation	\$	2,311,000
General Fund—Forest Development Account		
Appropriation	\$	10,373,000
General Fund—Landowner Contingency		
Forest Fire Suppression Account Approp-		
riation	\$	1,539,000
General Fund—Survey and Maps Account		
Appropriation	\$	671,000
General Fund—Resource Management Cost		
Account Appropriation	\$	60,692,000
General Fund—Geothermal Account Approp-		
riation	\$	76,000
Total Appropriation	\$	((103,178,000))
		<u>103,508,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,100,000 of the general fund—state appropriation is provided solely to carry out the purposes of chapter 40, Laws of 1983 1st ex. sess.: PROVIDED, That for that enrollment period which begins after March 1, 1984, the average cost per enrollee shall not be greater than \$8,300, inclusive of wages and administration, equipment, transportation, and residence costs: PROVIDED FURTHER, That, if this amount is exceeded, the remaining funds of the amount specified in this subsection shall revert to the general fund.

(2) \$50,000 of the general fund—state appropriation is provided solely to conduct a study of the continuous transfer of material and products across state lands.

(3) \$~~((438,000))~~ 475,000 of the general fund—state appropriation shall be used solely for the department of natural resources to move from the ~~((house office and))~~ public lands building(s) and vacate the house office building.

(4) Not more than \$843,000 of the general fund—state appropriation shall be used to fund ten additional honor camp teams.

(5) \$196,000 of the general fund—state appropriation is provided solely for costs incurred by Skamania county in Skamania v. State, 102 Wn.2d 127 (1984).

(6) \$62,000 of the general fund—state appropriation is provided solely for costs incurred by the department in Skamania v. State, 102 Wn.2d 127 (1984).

(7) \$50,000 of the resource management cost account appropriation is provided solely for a feasibility study of trust acquisition and leasing of winter recreation sites.

Sec. 302. Section 90, chapter 76, Laws of 1983 1st ex. sess. as amended by section 308, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund Appropriation—State	\$	(+1,271,000)
		<u>11,496,000</u>
General Fund Appropriation—Federal	\$	626,000
General Fund—Feed and Fertilizer Account		
Appropriation	\$	17,000
Fertilizer, Agricultural, Mineral and Lime		
Fund Appropriation	\$	360,000
Commercial Feed Fund Appropriation—		
State	\$	361,000
Commercial Feed Fund Appropriation—		
Federal	\$	13,000
Seed Fund Appropriation	\$	1,011,000
Nursery Inspection Fund Appropriation	\$	449,000
Total Appropriation	\$	(+4,108,000)
		<u>14,333,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$156,000 from the general fund—state appropriation shall be used to enhance the pesticide field investigations.

(2) \$60,000 from the general fund—state appropriation shall be used to enhance consumer services within the agricultural development program.

(3) \$300,000 from the general fund—state appropriation shall be used to establish a marketing program for the Washington wine industry and the department of agriculture shall present a proposal to the forty-ninth legislature which establishes a wine commodity commission.

(4) \$600,000 from the general fund—state appropriation shall be used solely for carrying out the purposes of chapter 40, Laws of 1983 1st ex. sess.: PROVIDED, That for that enrollment period which begins after March 1, 1984, the average cost per enrollee shall not be greater than

\$8,300, inclusive of wages and administration, equipment, transportation, and residence costs: PROVIDED FURTHER, That, if this amount is exceeded, the remaining funds of the amount specified in this subsection shall revert to the general fund.

(5) \$104,000 is provided solely for a food bank coordinator and related costs.

(6) \$~~((475,000))~~ 700,000 of the general fund—state appropriation is provided solely for the gypsy moth and apple maggot detection and control program. The additional \$225,000 of the General Fund-State appropriation is provided solely for the apple maggot detection and control program. Aerial gypsy moth eradication shall be limited to biological control agents.

Sec. 303. Section 310, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE EXPO '86 COMMISSION
General Fund—State Appropriation \$ ~~((320,000))~~
573,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$130,000 is provided solely for operational purposes.
- (2) \$190,000 of the appropriation is provided solely for the initial planning and design for exhibition space and facilities for Washington state participation in the exposition, provided that not more than \$10,000 of this amount shall be spent on studies and specifications relating to the use of a ferry-type vessel as a part of the exhibition space.

PART IV
TRANSPORTATION

Sec. 401. Section 94, chapter 76, Laws of 1983 1st ex. sess. as amended by section 402, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING
General Fund Appropriation \$ 12,798,000
General Fund—Architects' License Account
Appropriation \$ 373,000
General Fund—Optometry Account Approp-
riation \$ 119,000
General Fund—Professional Engineers' Ac-
count Appropriation \$ 602,000
General Fund—Real Estate Commission Ac-
count Appropriation \$ 4,591,000
General Fund—Board of Psychological Ex-
aminers Account Appropriation \$ 66,000
General Fund—Medical Disciplinary Ac-
count Appropriation \$ 172,000

Game Fund Appropriation	\$	187,000
Highway Safety Fund Appropriation	\$	38,415,000
Highway Safety Fund—Motorcycle Safety		
Education Account Appropriation	\$	237,000
Motor Vehicle Fund Appropriation	\$	35,233,000
Total Appropriation	\$	(92,621,000)
		<u>92,793,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$450,000 of the general fund appropriation is provided solely for the design and development of a Uniform Commercial Code automated lien filing and search system. If other legislation authorizing expenditures for a Uniform Commercial Code automated lien filing and search system is enacted before July 1, 1983, the general fund—state appropriation in this section shall be reduced by the amount actually expended under the other legislation.

(2) \$66,446 is provided solely for the department of licensing to employ competent persons on a temporary basis to assist the dental hygiene examination committee in conducting examinations for dental hygiene licensure. The dental hygiene examination committee shall be reimbursed pursuant to RCW 43.03.050.

(3) If House Bill No. 1698 or similar legislation delaying the implementation of chapter 72, Laws of 1983, is enacted prior to July 1, 1984, the motor vehicle fund state appropriation shall be reduced by \$510,000.

(4) \$1,833,000 of the highway safety fund appropriation is provided solely for the purposes of chapter 165, Laws of 1983, and is subject to the following conditions and limitations:

(a) \$478,000 of the amount in this subsection (4) is provided solely for attorney general services. No other moneys may be spent for this purpose.

(b) The department of licensing shall maintain complete and separate accounting and reporting systems for expenditures under this subsection (4).

(c) If Substitute House Bill No. 977, or other legislation delaying the effective date of section 47, chapter 165, Laws of 1983, is enacted before July 1, 1984, the amounts provided in this subsection (4) shall lapse. The appropriation contained in this subsection (4) shall be reduced to \$180,000 if legislation is enacted which delays the effective date of section 47, chapter 165, Laws of 1983 and establishes a program that requires the following:

(i) Confiscation of a driver's license at the time of arrest for a violation of RCW 46.61.402 or 46.61.405; and

(ii) Issuance of a temporary license by the arresting officer.

PART V
EDUCATION

Sec. 501. Section 97, chapter 76, Laws of 1983 1st ex. sess. as amended by section 502, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION FORMULA FOR FISCAL YEARS 1984 AND 1985

General Fund Appropriation \$ ((2,917,618,000))
2,897,381,000

The appropriation in this section is subject to the following conditions and limitations:

(1) As a condition to the allocation of funds to school districts appropriated pursuant to this section, the superintendent of public instruction shall require school districts to ensure that no salary and compensation increases for the 1984-85 school year from any fund source whatsoever are in excess of those amounts for state recognized increments, insurance benefit increases, and/or for those identified salary increases as specified in this act: PROVIDED, That any state recognized increment increase, insurance benefit increase, and/or salary increase found to be greater than that specified in this act shall be in violation of the conditions to the receipt of funds appropriated in this act for school districts; therefore, the superintendent of public instruction shall withhold an amount equal to the level of the violation when applied to the district's respective basic education allocation, unless or until such time as the school district comes into compliance: PROVIDED FURTHER, That the superintendent of public instruction shall additionally require school districts to ensure that no recognized group of employees as identified in RCW 28A.58.095 shall increase their relative total salary or insurance benefit position at the expense of any other recognized group of employees using the district's authorized total salary and benefit increase allocation for the 1984-85 school year. Any such group of employees which has clear and convincing evidence that its district is in violation of this proviso may present such clear and convincing evidence in a challenge to the superintendent of public instruction, who shall determine the validity of the group's challenge. If sustained, the district shall be deemed in violation of the conditions to the receipt of funds appropriated in this act for school districts and the superintendent of public instruction shall withhold an amount in addition to any funds withheld pursuant to the preceding provision equal to the level of the violation when applied to the district's respective basic education allocation, unless or until such time as the school district comes into compliance.

(2) Formula allocation of certificated staff units shall be determined as follows:

(a) One certificated staff unit for each average annual twenty full time equivalent kindergarten, elementary, and secondary students, excluding secondary vocational full time equivalent students enrolled in a vocational program approved by the superintendent of public instruction and excluding full time equivalent handicapped enrollment calculated in accordance with LEAP Document 6.

(b) One certificated staff unit for each average annual eighteen and three-tenths full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction: PROVIDED, That in skill centers, the ratio shall be one certificated staff unit for each average annual sixteen and sixty-seven one-hundredths full time equivalent students enrolled in an approved vocational education program.

(c) For districts enrolling not more than one hundred average annual full time equivalent students (except as otherwise specified) and for small school plants within any school district, which small plants have been judged to be remote and necessary by the state board of education, certificated staff units shall be determined as follows:

(i) For grades K-6, for enrollments of not more than sixty annual average full time equivalent students, three certificated staff units;

(ii) For grades K-6, for enrollments above sixty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty annual average full time equivalent students;

(iii) For grades 7 and 8, for enrollments of not more than twenty annual average full time equivalent students, one certificated staff unit;

(iv) For grades 7 and 8, for enrollment above twenty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty annual average full time equivalent students;

(v) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a K-8 program or 1-8 program, an additional one-half of a certificated staff unit;

(vi) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a K-6 or 1-6 program, an additional one-half of a certificated staff unit.

(d) For districts operating high schools with enrollments of not more than three hundred average annual full time equivalent students, certificated staff units shall be determined as follows:

(i) Nine and one-half certificated staff units for the first sixty annual average full time equivalent students;

(ii) Additional certificated staff units based upon a ratio of one certificated staff unit per forty-three and one-half average annual full time equivalent students.

(3) (a) For nonemployee related costs with each certificated staff unit determined under subsection (2) (a), (c), and (d) of this section, there shall be provided a maximum of \$5,287 per staff unit in the 1983-84 school year and a maximum of \$5,462 per staff unit in the 1984-85 school year.

(b) For nonemployee related costs with each certificated staff unit determined under subsection (2)(b) of this section, there shall be provided a maximum of \$10,074 per staff unit in the 1983-84 school year and a maximum of \$10,408 per staff unit in the 1984-85 school year.

(4) Formula allocation of classified staff units shall be determined as follows:

(a) One classified staff unit per each three certificated staff units determined under subsection (2) (a), (c), and (d) of this section;

(b) One classified staff unit for each sixty full time equivalent vocational students enrolled; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(5) The superintendent shall distribute a maximum of ~~\$(17,088,000))~~ 15,629,000 outside the basic education formula as follows:

(a) A maximum of ~~\$(636,000))~~ 601,000 may be distributed to school districts for fire protection at a rate of \$1.056 in fiscal year 1984 and \$1.119 in fiscal year 1985 for each student attending a school located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW.

(b) A maximum of ~~\$(1,650,000))~~ 1,120,000 may be expended for operation of vocational programs at each of the skill centers during the summer months, beginning in 1983.

(c) A maximum of ~~\$(272,000))~~ 141,000 may be distributed for school district emergencies.

(d) A maximum of ~~\$(3,613,000))~~ 2,901,000 may be expended for districts which experience an enrollment decline of at least four percent or more than three hundred full time equivalent students, whichever is less, from the enrollment of the prior year. For a qualifying district, the superintendent of public instruction shall increase the enrollment as otherwise computed by twenty-five percent of the full time equivalent enrollment loss from the previous school year.

(e) A maximum of ~~\$(3,720,000 in fiscal year 1984 and \$7,197,000 in fiscal year 1985))~~ 10,866,000 may be expended for substitute teachers. Funds shall be distributed to school districts at a rate not to exceed \$150 per year per full time equivalent classroom teacher in the basic education and handicapped programs for 1983-84 and \$250 per year for 1984-85.

(6) For the 1982-83 school year, if a school district is in violation of RCW 28A.58.095 the superintendent shall withhold the lesser of five per cent or an amount equal to the level of violation, applied to the district's basic education allocation.

(7) Notwithstanding the limitations contained in subsection (1) of this section, any superintendent's position and salary and compensation shall be eliminated for the purpose of determining compliance with the provisions set forth in this section if any two school districts jointly employ a single superintendent and reduce their respective superintendent positions in 1984-85 from full-time to half-time. For 1984-85, the superintendent of public instruction shall modify LEAP Document 5 to reflect the change in each superintendent's position in the two school districts from full-time to half-time but only to the extent such adjustment does not recognize a 1984-85 salary level that exceeds the combined total of the two superintendents' salaries in 1983-84.

*Sec. 502. Section 103, chapter 76, Laws of 1983 1st ex. sess. as amended by section 505, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—SALARY AND COMPENSATION INCREASES
 General Fund Appropriation \$ 77,328,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Increases provided by this section shall be included for purposes of calculating the levy lid pursuant to chapter 84.52 RCW.

(2) Salary and insurance benefit increase funds provided by this section shall be distributed by the superintendent of public instruction as specified in this section on an allocation basis only and may be expended by school districts for any state-funded activity.

(3) A maximum of \$26,311,000 shall be distributed for insurance benefit increases for full time equivalent state-supported staff as defined in section 98(1) of this act at a rate of \$22 per month per full time equivalent staff unit in the 1983-84 school year and such amount shall be maintained in the 1984-85 school year.

(4) A maximum of \$4,286,000 shall be distributed in the 1984-85 ((school)) fiscal year for insurance benefit increases for full time equivalent state-supported staff as defined in section 98(1) of this act at a rate of \$8 per month per full time equivalent staff unit.

(5) (a) A maximum of \$10,185,000 is provided, effective January 1, 1985, for incremental fringe benefits in section 98(2) of this act and 7.0% of the 1982-83 LEAP Document 5 state-wide average salary for state-supported basic education classified staff as defined in section 98(1) of this act. With respect to the remaining state-supported classified staff of a district as

defined in section 98(1) of this act, the superintendent shall distribute a 7.0% salary increase using the pertinent program state-wide average salary for such staff.

(b) The salary increase authorized by subsection (5)(a) of this section shall be the maximum level of state-supported salary increase unless the legislature makes an upward adjustment in a subsequent legislative session.

(c) During the 1983-84 school year, the superintendent of public instruction, as part of the regular classified data reporting process, shall collect data regarding the length of service of each basic education classified employee in their particular job classification. The superintendent of public instruction shall submit a report to the legislature prior to March 1, 1984, regarding the proposed allocation methodology as required by subsection (5)(d) of this section. Such a report shall consider present practices by the state personnel board in granting increments.

(d) The superintendent of public instruction shall, during the 1984-85 ((school)) fiscal year, allocate \$400,000 of the funds allocated by subsection (5)(a) of this section to each district in accordance with its particular 1983-84 complement of staff.

(e) Pursuant to RCW 84.52.0531(3), any school district having an average classified salary as shown on LEAP Document 5 of less than \$16,513 for the 1982-83 school year may grant salary increases to classified staff in the 1983-84 school year to achieve a maximum average classified salary of \$16,513. For purposes of allocating basic education funds in the 1984-85 school year, the superintendent shall modify LEAP Document 5 to reflect any increases given in accordance with this provision.

(f) A district shall not be in violation of RCW 28A.58.095 as a result of reporting revised staff mix data for the 1983-84 school year in accordance with the revised S-275 staff mix reporting instructions promulgated by the superintendent of public instruction. For 1984-85, the superintendent of public instruction shall modify LEAP Document 5 to assure that the average certificated salary for a district shall neither increase nor decrease for apportionment purposes as a result of this subsection (5)(f).

(g) A school district that is operating with a preexisting contract that did not include all of its classified staff in the 1981-82 and 1982-83 school year and, as a result of implementing this preexisting contract, did not provide a salary increase to those classified staff excluded from the contract for the period of the preexisting contract, the district shall be allowed to provide to such excluded classified staff a salary increase equivalent to that provided under the preexisting contract and such increase shall not be in violation of RCW 28A.58.095 as specified in sections 502(1) and 505 of chapter 285, Laws of 1984.

(6) (a) A maximum of \$36,540,000 is provided effective January 1, 1985, for incremental fringe benefits in section 98(2) of this act and 7.0% of the 1982-83 LEAP Document 5 average state-wide derived base salary

times the district's 1983-84 staff mix factor (as defined in section 99(3) of this act) for state-supported basic education staff as defined in section 98(1) of this act. With respect to the remaining state-supported certificated staff of a district as defined in section 98(1) of this act, the superintendent shall distribute a 7.0% salary increase times the pertinent state-wide average derived base salary improved by the 1983-84 staff mix of each district for such staff.

(b) The salary increase authorized by subsection (6)(a) of this section shall be the maximum level of state-supported salary increase unless the legislature makes an upward adjustment in a subsequent legislative session.

(7) For purposes of RCW 28A.58.095, the following conditions and limitations apply:

(a) The sum of salary and insurance benefit increases granted by each school district for nonstate-supported staff shall not exceed those specified for state-supported staff of a district.

(b) Increments granted by school districts to certificated staff in the year in which the increments are given by a district shall constitute salary increase only to the extent that the aggregate of increments granted by a district in accordance with its salary schedule exceeds the aggregate of increments pursuant to LEAP Document 1.

(c) Salary increases provided by this section shall be applied to the respective district base salaries for certificated staff and the respective district average salaries for classified staff, each as specified in LEAP Document 5 as revised in accordance with this act.

(d) During the 1984-85 school year, districts may grant increases in insurance benefits to achieve a rate of \$179.00 per month per full time equivalent staff unit.

(e) For the 1984-85 school year, for the purpose of insurance benefit increases for classified employees, a full time equivalent employee is an employee contracted to work 1,440 hours per year or more. ~~((The superintendent shall perform a study of the number of eligible employees to be classified as full time equivalent employees for insurance benefits, and shall prepare a recommended funding method to present to the 1985 session of the legislature. It is intended that the superintendent of public instruction shall distribute funds during July and August, 1985 to support such increases for classified entitlement in state-funded programs as defined in section 98(1) of this act.))~~

(8) Part-time classified insurance benefits as authorized in subsection (7)(e) of this section shall be allocated by multiplying the number of state-supported full time equivalent staff units, as defined in section 98(1), chapter 76, Laws of 1983 1st ex. sess., excluding therefrom educational service districts and transportation program staff, times \$304.61: PROVIDED,

That funds for this subsection are provided in the 1985-87 omnibus appropriations act. With respect to the transportation program, the superintendent of public instruction may increase the 1984-85 standard student mile rate by a maximum of 35.2 cents.

*Sec. 502 was partially vetoed, see message at end of chapter.

Sec. 503. Section 104, chapter 76, Laws of 1983 1st ex. sess. as amended by section 506, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund Appropriation \$ ((+71,057,000))
165,974,000

The appropriation in this section is subject to the following conditions and limitations:

(1) A maximum of \$75,110,400 may be expended in the 1983-84 fiscal year.

(2) A maximum of \$712,000 may be expended for regional transportation coordinators.

(3) A maximum of \$53,000 may be expended for driver training.

(4) (a) A maximum of \$1,746,400 shall be allocated as specified in subsection (4)(b) of this section in the 1983-84 fiscal year to only those school districts that, assuming the 1983-84 formula operating allocation was funded at one hundred percent, would receive less than sixty-five percent of their respective 1982-83 transportation operating expenditures. This one-time appropriation shall be for transition purposes to give these districts time to eliminate operating inefficiencies.

(b) An eligible district shall receive money sufficient to either restore its preliminary allocation specified by bulletin 24-83 or the difference between its 1982-83 operating expenditures at sixty-five percent and the 1983-84 formula operating allocation calculated at one hundred percent, whichever is less.

(5) The superintendent of public instruction is directed to report to the ways and means committees of both houses no later than September 1, 1984, identifying:

(a) The specific problems associated with the implementation of chapter 61, Laws of 1983 1st ex. sess. (Substitute House Bill No. 296) which resulted in a transportation funding shortfall in many school districts during the 1983-84 school year.

(b) The steps which the superintendent is following to alleviate all such shortfalls in 1983-84 transportation allocations and to prevent similar problems from occurring in future school years.

(c) A plan to retroactively reimburse in the 1985 supplemental budget those districts whose transportation programs were underfunded in the

1983-84 school year due to the problems of implementing chapter 61, Laws of 1983 1st ex. sess. (Substitute House Bill No. 296).

Sec. 504. Section 126, chapter 76, Laws of 1983 1st ex. sess. as amended by section 524, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION PERSONNEL BOARD

General Fund Appropriation	\$	40,000
Higher Education Personnel Board Service		
Fund Appropriation	\$	((1,370,000))
		<u>1,400,000</u>
Total Appropriation	\$	((1,410,000))
		<u>1,440,000</u>

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) \$19,000 shall be used to join with the department of personnel in conducting a study of part-time employee policy and benefits.

(2) \$40,000 of the general fund appropriation is provided solely for the higher education personnel board to conduct a study for the purpose of reviewing and formulating ways to implement comparable worth in accordance with chapter 75, Laws of 1983 1st ex. sess. The board shall coordinate the study with the department of personnel and its study on comparable worth implementation. During the course of the study, the board shall report to the joint select committee on comparable worth on the study's progress. The board shall report back to the legislature no later than January 1, 1985 with potential implementation alternatives.

(3) \$30,000 of the higher education personnel board service fund appropriation is provided solely for legal services for comparable worth litigation.

**PART VI
SPECIAL APPROPRIATIONS**

Sec. 601. Section 134, chapter 76, Laws of 1983 1st ex. sess. as amended by section 601, chapter 285, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE GOVERNOR—SALARY AND INSURANCE CONTRIBUTION INCREASES

(1) There is appropriated for the four-year institutions of higher education from the General Fund \$ 17,187,000

(2) There is appropriated for the community college system from the General Fund \$ 9,760,000

(3) There is appropriated for the department of corrections from the General Fund \$ 5,841,000

(4) There is appropriated for the department of social and health services from the:

General Fund—State	\$	12,220,000
General Fund—Federal	\$	7,419,000

(5) There is appropriated for other state agencies from the:

General Fund—State	\$	8,341,000
General Fund—Federal	\$	1,842,000

(6) There is appropriated for all state agencies from the Special Fund Salary and Insurance Contribution Increase

Revolving Fund	\$	21,652,000
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(7) The appropriations in this section shall be expended to implement:

(a) Salary increases effective not later than January 1, 1985, to implement such portion of the 1982 salary survey (catch-up results) as possible, rounded to the next range if the application results in a fractional range, for higher education classified employees, state personnel board classified and exempt employees, commissioned officers of the Washington state patrol, faculty and administrative exempt employees of the community college system and the four-year institutions of higher education and medical residents and graduate assistants, including teaching assistants and research assistants of the four-year institutions of higher education (excluding student employees not under the jurisdiction of the state or higher education personnel boards);

(b) Merit/market increases effective not later than January 1, 1985, and not to exceed (~~(\$3,140,000 (of which \$3,128,000 is from the general fund))~~) an average of 3.1% for faculty and administrative exempt employees of the four-year institutions of higher education(~~(= PROVIDED, That excluding the regional university and college faculty resource equalization moneys under sections 121 through 123 of this act, no research university, regional university, or state college may grant from any fund source whatsoever any salary increases greater than that provided in this section))~~). The increases are to be granted solely on the basis of formal merit evaluation procedures which may take into account critical market disparities in teaching disciplines. The council for postsecondary education shall report to the governor and the legislature on the implementation of the increases no later than February 15, 1985;

(c) Increases in the state's maximum contribution for employee insurance benefits effective July 1, 1983, from \$137.00 per month to \$159.00 per month per eligible employee for higher education classified employees, commissioned officers of the Washington state patrol, faculty and administrative exempt employees of the community college system and the four-year institutions of higher education, and state personnel board classified and exempt employees (excluding student employees not under the jurisdiction of the state or higher education personnel boards). The monthly premium paid for insurance benefits shall not be more than the equivalent of \$159.00 per eligible employee effective July 1, 1983 through June 30, 1984.

(d) Increases in the state's maximum contribution for employee insurance benefits effective July 1, 1984, from \$159.00 per month to \$167.00 per month per eligible employee for higher education classified employees, commissioned officers of the Washington state patrol, faculty and administrative exempt employees of the community college system and the four-year institutions of higher education, and state personnel board classified and exempt employees (excluding student employees not under the jurisdiction of the state or higher education personnel boards). The monthly premium paid for insurance benefits shall not be more than the equivalent of \$179.00 per eligible employee effective July 1, 1984.

(e) The state employees insurance board's authority and practice of expending funds in the state employees insurance revolving fund generated by dividends or refunds is recognized, and the average contribution per eligible employee in subsections (c) and (d) of this section shall not be construed as a restriction on such expenditures: PROVIDED, That any moneys resulting from a dividend or refund shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this 1984 act and in no case may the maximum premium paid be more than \$179.00 per month per eligible employee. Contributions by any county, municipal, or other political subdivision to which coverage is extended after the effective date of this 1984 act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date upon which coverage is extended.

(8) The community colleges may grant merit/market increases effective not later than January 1, 1985, and not to exceed \$2,038,000 of general fund moneys for faculty and administrative exempt employees: PROVIDED, That no community college district may grant from any fund source whatsoever any salary increase greater than that provided in this section. The council for postsecondary education shall report to the governor and the legislature on the implementation of any increases granted pursuant to this subsection no later than February 15, 1985.

(9) To facilitate payment of state employee salary increases from special funds and to facilitate payment of state employee insurance benefit increases from special funds, the state treasurer is directed to transfer sufficient income from each special fund to the special fund salary and insurance contribution increase revolving fund hereby created in accordance with schedules provided by the office of financial management.

Sec. 602. Section 141, chapter 76, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance	
premiums tax distribution	\$ ((4,672,212))
	<u>3,852,000</u>

General Fund Appropriation for refund of deferred property tax	\$	((313,000))
		<u>515,500</u>
General Fund Appropriation for public utility district excise tax distribution	\$	((22,038,408))
		<u>18,415,000</u>
General Fund Appropriation for prosecuting attorneys' salaries	\$	((1,681,453))
		<u>1,627,000</u>
General Fund Appropriation for motor vehicle excise tax distribution	\$	((37,458,038))
		<u>37,628,000</u>
General Fund Appropriation for local mass transit assistance	\$	((124,194,643))
		<u>118,738,000</u>
General Fund Appropriation for camper and travel trailer excise tax distribution	\$	((1,509,071))
		<u>1,364,000</u>
General Fund—Harbor Improvement Account Appropriation for harbor improvement revenue distribution	\$	653,749
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution	\$	20,624,310
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution	\$	204,721,141
Liquor Revolving Fund Appropriation for liquor profits distribution	\$	51,000,000
State Timber Tax Account 'A' Appropriation for distribution to "Timber" counties	\$	15,920,000
State Timber Tax Reserve Account Appropriation for distribution to "Timber" counties	\$	14,750,000
General Fund—Municipal Sales and Use Tax Equalization Account Appropriation	\$	20,169,962
General Fund—County Sales and Use Tax Equalization Account Appropriation	\$	6,779,819
Total Appropriation	\$	((526,484,806))
		<u>516,758,481</u>

NEW SECTION. Sec. 603. FOR SUNDRY CLAIMS

The following sums, or so much thereof as are necessary, are appropriated from the general fund for the payment of court judgments and for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management as follows:

- (1) Sullivan Realty, Inc., payment of judgment in State v. Black, Superior Court for Spokane County, Cause No. 247104 \$ 28,346.54
- (2) Hege Co., Inc., payment of judgment in State v. Black, Superior Court for Spokane County, Cause No. 247104 \$ 28,346.54
- (3) Tupper Realty, Inc., payment of judgment in State v. Black, Superior Court for Spokane County, Cause No. 247104 \$ 64,474.00

NEW SECTION. Sec. 604. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 605. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 25, 1985.

Passed the Senate March 20, 1985.

Approved by the Governor April 2, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 2, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 502(5)(g), En-grossed Substitute House Bill No. 386 entitled:

"AN ACT Relating to state agencies."

The section I have vetoed was designed to correct a specific problem in one school district. Since legislative action on ESHB 386, it has come to my attention that the language may do more than intended.

The vetoed language involves complex contracting situations. Retaining the language could cause confusion among local bargaining units and administrators.

I believe the problem raised by this issue deserves a solution. I will work with the Legislature during the interim to find an appropriate one."

CHAPTER 15

[Substitute House Bill No. 16]

PREVAILING WAGE—COMPLAINTS—INTERESTED PARTY—
VIOLATIONS

AN ACT Relating to prevailing wage rates; amending RCW 39.12.010 and 39.12.050; and adding a new section to chapter 39.12 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 63, Laws of 1945 as amended by section 1, chapter 133, Laws of 1965 ex. sess. and RCW 39.12.010 are each amended to read as follows:

(1) The "prevailing rate of wage", for the intents and purposes of this chapter, shall be the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workmen, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workmen or mechanics in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workmen or mechanics on any public work is based on some period of time other than an hour, the hourly wage for the purposes of this chapter shall be mathematically determined by the number of hours worked in such period of time.

(2) The "locality" for the purposes of this chapter shall be the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" for the purposes of this chapter shall include the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" for the purposes of this chapter shall include a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee.

NEW SECTION. Sec. 2. A new section is added to chapter 39.12 RCW to read as follows:

(1) Upon complaint by an interested party, the director of labor and industries shall cause an investigation to be made to determine whether there has been compliance with this chapter and the rules adopted hereunder, and if the investigation indicates that a violation may have occurred, a

hearing shall be held in accordance with chapter 34.04 RCW. The director shall issue a written determination including his or her findings after the hearing. A judicial appeal from the director's determination may be taken in accordance with chapter 34.04 RCW, with the prevailing party entitled to recover reasonable costs and attorneys fees.

A complaint concerning nonpayment of the prevailing rate of wage shall be filed with the department of labor and industries no later than thirty days from the acceptance date of the public works project. The failure to timely file such a complaint shall not prohibit a claimant from pursuing a private right of action against a contractor or subcontractor for unpaid prevailing wages. The remedy provided by this section is not exclusive and is concurrent with any other remedy provided by law.

(2) To the extent that a contractor or subcontractor has not paid the prevailing rate of wage under a determination issued as provided in subsection (1) of this section, the director shall notify the agency awarding the public works contract of the amount of the violation found, and the awarding agency shall withhold, or in the case of a bond, the director shall proceed against the bond in accordance with the applicable statute to recover, such amount from the following sources in the following order of priority until the total of such amount is withheld:

(a) The retainage or bond in lieu of retainage as provided in RCW 60.28.010;

(b) The bond filed by the contractor or subcontractor with the department of labor and industries as provided in RCW 18.27.040 and 19.28.120;

(c) A surety bond, or at the contractor's or subcontractor's option an escrow account, running to the director in the amount of the violation found; and

(d) That portion of the progress payments which is properly allocable to the contractor or subcontractor who is found to be in violation of this chapter. Under no circumstances shall any portion of the progress payments be withheld that are properly allocable to a contractor, subcontractor, or supplier, that is not found to be in violation of this chapter.

The amount withheld shall be released to the director to distribute in accordance with the director's determination.

(3) A contractor or subcontractor that is found, in accordance with subsection (1) of this section, to have violated the requirement to pay the prevailing rate of wage shall be subject to a civil penalty of not less than one thousand dollars or an amount equal to twenty percent of the total prevailing wage violation found on the contract, whichever is greater, and shall not be permitted to bid, or have a bid considered, on any public works contract until such civil penalty has been paid in full to the director. The civil penalty under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error. To the extent that a contractor or subcontractor has not paid the prevailing wage rate under a

determination issued as provided in subsection (1) of this section, the unpaid wages shall constitute a lien against the bonds and retainage as provided herein and in RCW 18.27.040, 19.28.120, 39.08.010, and 60.28.010.

Sec. 3. Section 5, chapter 63, Laws of 1945 as last amended by section 1, chapter 71, Laws of 1977 ex. sess. and RCW 39.12.050 are each amended to read as follows:

(1) Any contractor or subcontractor who ~~((shall upon oath verify any statement required to be filed under this chapter which is known by said person to be false, or is made without knowledge and in reckless disregard of the truth, shall, after a finding to that effect in a hearing held by the director of the department of labor and industries, subject to the provisions of chapter 34.04 RCW, be subject to a civil penalty not to exceed five thousand dollars, and shall not be permitted to bid on any contract covered by the provisions of this chapter until such fine has been paid in full to the director and until all wages due pursuant to the prevailing wage requirements of RCW 39.12.020 have been paid))~~ files a false statement or fails to file any statement or record required to be filed under this chapter and the rules adopted under this chapter, shall, after a determination to that effect has been issued by the director after hearing under chapter 34.04 RCW, forfeit as a civil penalty the sum of five hundred dollars for each false filing or failure to file, and shall not be permitted to bid, or have a bid considered, on any public works contract until the penalty has been paid in full to the director. The civil penalty under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages shall constitute a lien ~~((of the first priority))~~ against ~~((such contractor's or subcontractor's bond according to the provisions of RCW 18.27.040))~~ the bonds and retainage as provided in RCW 18.27.040, 19.28.120, 39.08.010, and 60.28.010.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second ~~((or subsequent))~~ time within a five year period, ~~((said))~~ the contractor or subcontractor shall be subject to the sanctions prescribed in subsection (1) of this section and shall~~((, at the discretion of the director of the department of labor and industries, be prohibited from bidding on any contract covered by the provisions of this chapter for a period of one year from the date of notice by the director of his findings that said contractor or subcontractor has violated the provisions of subsection (1) of this section for a second or subsequent time within a five year period, or during the period of any appeal thereof, in which event))~~ not be allowed to bid on any public works contract for one year. The one year period shall run from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the

director's determination, the one year period shall commence from the date of the final determination ((~~from any appeal taken of the director's findings; but in no event shall any contractor or subcontractor be allowed to bid on any contract covered by the provisions of this chapter until the fine prescribed by subsection (1) of this section has been paid to the director and until all wages due pursuant to the prevailing wage requirement of RCW 39.12.020 have been paid~~) of the appeal.

The director shall issue his or her findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.04 RCW.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 20, 1985.

Passed the Senate March 27, 1985.

Approved by the Governor April 9, 1985.

Filed in Office of Secretary of State April 9, 1985.

CHAPTER 16

[House Bill No. 312]

PRIVATE SCHOOLS—SCHOOL YEAR MINIMUM OF ONE HUNDRED EIGHTY DAYS

AN ACT Relating to private schools; and amending RCW 28A.02.201.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 92, Laws of 1974 ex. sess. as last amended by section 1, chapter 56, Laws of 1983 and RCW 28A 02.201 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional

status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) ~~The minimum school year ((shall be the same as that required of public schools in RCW 28A.01.025 as now or hereafter amended))~~ for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum program hour offerings as prescribed in RCW 28A.58.754.

(2) ~~The ((length of the))~~ school day shall be the same as that required ~~((of public schools))~~ in RCW 28A.01.010 and 28A.58.754, each as now or hereafter amended, except that the percentages of total program hour offerings as prescribed in RCW 28A.58.754 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(5) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: **PROVIDED**, That each school building shall meet reasonable health and fire safety requirements.

(6) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(7) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (6) above provided, school rules and administration, or other matters not specifically referred to in this section,

shall be the responsibility of the administration and administrators of the particular private school involved.

Passed the House February 20, 1985.

Passed the Senate March 27, 1985.

Approved by the Governor April 9, 1985.

Filed in Office of Secretary of State April 9, 1985.

CHAPTER 17

[Substitute House Bill No. 490]

SUPPLEMENTAL TRANSPORTATION BUDGET

AN ACT Relating to transportation: amending section 5, chapter 53, Laws of 1983 1st ex. sess. (uncodified); amending section 15, chapter 53, Laws of 1983 1st ex. sess. (uncodified); amending section 20, chapter 53, Laws of 1983 1st ex. sess. (uncodified); amending section 21, chapter 53, Laws of 1983 1st ex. sess. as amended by section 3, chapter 2, Laws of 1984 (uncodified); amending section 3, chapter 53, Laws of 1983 1st ex. sess. (uncodified); amending section 8, chapter 53, Laws of 1983 1st ex. sess. (uncodified); adding a new section to chapter 53, Laws of 1983 1st ex. sess.; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 53, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Motor Vehicle Fund Appropriation—State \$ ((284,502))
540,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The county road administration board shall monitor expenditures by counties of county road levy revenues and shall report all expenditures of these revenues for other than road construction and maintenance purposes to the legislative transportation committee annually beginning January 1, 1984.

(2) \$60,000 of the appropriation is provided solely for development of a computer program to adapt the department of transportation pavement management system for use by county road departments.

(3) \$195,000 of the appropriation is provided solely to make grants of \$7,500 to 26 counties for the purposes of purchasing micro-computers necessary to implement the pavement management system.

Sec. 2. Section 15, chapter 53, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION AND PLANNING—PROGRAM T

(1) For public transportation and rail programs:

General Fund Appropriation—State \$ 462,000
General Fund Appropriation—Federal \$ 5,448,000

General Fund Appropriation—Local	\$	198,000
(2) For planning and research:		
Motor Vehicle Fund Appropriation—State	\$	2,852,000
Motor Vehicle Fund Appropriation—Federal	\$	10,085,000
Total Public Transportation and Planning Appropriation		\$ 19,045,000

The appropriations in this section are provided for the management and support of the public transportation and planning division, urban mass transportation administration programs, for rail programs, for state loans for formation of public transportation districts, for studies which support local public transportation programs, for maintenance of the state transportation plan, for highway planning and research by the department of transportation, and for research and studies approved by the department of transportation.

The department of transportation may transfer up to \$500,000 from the motor vehicle fund—federal appropriation to the motor vehicle fund—state appropriation if federal funds are not available to fully fund the motor vehicle fund—federal appropriation in this section.

Sec. 3. Section 20, chapter 53, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE AND OPERATIONS—PROGRAM M

Motor Vehicle Fund Appropriation—State	\$	((+50,294,367))
		<u>152,294,367</u>
Motor Vehicle Fund Appropriation—Local	\$	3,119,000
Total Appropriation	\$	((+53,413,367))
		<u>155,413,367</u>

The appropriations in this section are for the maintenance and operations of state highways, maintenance and operations of highway plants, and associated management and support. \$2,000,000 of the motor vehicle fund—state appropriation is provided solely for snow and ice control.

Sec. 4. Section 21, chapter 53, Laws of 1983 1st ex. sess. as amended by section 3, chapter 2, Laws of 1984 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM A

Motor Vehicle Fund Appropriation—State	\$	111,100,000
Motor Vehicle Fund Appropriation—Federal and Local	\$	113,700,000
Total Appropriation	\$	224,800,000

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "A" under RCW 47.05.030.

The department of transportation may transfer up to \$6,000,000 in appropriation authority between federal and state contained in this section to take advantage of a favorable construction climate anticipated to continue through the end of the current biennium, which proposes to accelerate projects which cannot qualify for federal funding, but are a high priority and relatively easy to implement: PROVIDED, That any amounts expended from the motor vehicle fund—state appropriation in excess of the amount appropriated under section 21, chapter 53, Laws of 1983 1st ex. sess. as amended by chapter 2, Laws of 1984 in the 1983–1985 fiscal biennium shall be transferred to reserve status from amounts appropriated in the 1985–1987 fiscal biennium.

NEW SECTION. Sec. 5. A new section is added to chapter 53, Laws of 1983 1st ex. sess. to read as follows:

The department of transportation may transfer up to \$450,000 of motor vehicle fund—state appropriations contained in sections 13 and 14, chapter 53, Laws of 1983 1st ex. sess. into section 12, chapter 53, Laws of 1983 1st ex. sess. for the sole purpose of funding expenditures incurred by the attorney general's office for tort claims administration.

Sec. 6. Section 3, chapter 53, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE BOARD OF PILOTAGE COMMISSIONERS

General Fund—Pilotage Account Appropria-

tion—State	\$	((71,900))
		<u>76,900</u>

The appropriation in this section is appropriated to carry out chapter 88.16 RCW.

Sec. 7. Section 8, chapter 53, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PATROL

Motor Vehicle Fund—State Patrol Highway

Account Appropriation	\$	((103,518,024))
		<u>104,294,894</u>
Highway Safety Fund Appropriation	\$	11,875
Total Appropriation	\$	((103,529,899))
		<u>104,306,769</u>

The appropriations in this section are subject to the following condition or limitation: The highway safety fund appropriation in this section is provided for the vehicle equipment safety commission.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 29, 1985.

Passed the Senate March 27, 1985.

Approved by the Governor April 9, 1985.

Filed in Office of Secretary of State April 9, 1985.

CHAPTER 18

[Substitute House Bill No. 850]

LANDSCAPE ARCHITECTS—REGISTRATION MODIFICATIONS

AN ACT Relating to landscape architects; amending RCW 18.96.040, 18.96.090, 18.96.110, and 18.96.130; repealing RCW 43.131.265 and 43.131.266; providing penalties; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 158, Laws of 1969 ex. sess. and RCW 18.96.040 are each amended to read as follows:

There is created a state board of registration for landscape architects. The board shall consist of three landscape architects and two members ~~((from closely related professions and/or trades))~~ of the general public. Members of the board shall be appointed by the governor and must be residents of this state having the qualifications required by this chapter.

No public member of the board may be a past or present member of any other licensing board under this title. No public member may make his or her own livelihood from, nor have a parent, spouse, or child make their respective livelihood from providing landscape architect services, or from enterprises dealing in landscape architecture.

The landscape architect members of the board must, while serving on the board, be actively engaged in their profession or trade and, immediately preceding appointment, have had at least five years experience in responsible charge of work or teaching within their profession or trade.

Sec. 2. Section 9, chapter 158, Laws of 1969 ex. sess. and RCW 18.96.090 are each amended to read as follows:

Examinations of applicants for certificates of registration shall be held at least annually or at such times and places as the board may determine. The board shall determine from the examination and the material submitted

with the applications whether or not the applicants possess sufficient knowledge, ability and moral fitness to safely and properly practice landscape architecture and to hold themselves out to the public as persons qualified for that practice.

The scope of the examination and methods of procedure shall be prescribed by the board with special reference to landscape construction materials and methods, grading and drainage, plant materials suited for use in the northwest, specifications and supervisory practice, history and theory of landscape architecture relative to landscape architectural design, site planning and land design, subdivision, urban design, and a practical knowledge of botany, horticulture and similar subjects related to the practice of landscape architecture.

Applicants who fail to pass any subjects shall be permitted to retake the examination in the subjects failed (~~(a minimum passing grade in each subject shall be seventy percent with an average in all subjects of seventy-five percent)~~). A passing grade in any subject area shall exempt the applicant from examination in that subject for five years: PROVIDED, That failure to complete successfully the entire examination within five years will result in requiring a retake of the entire examination. The board may determine the standard for passing grades computed on a scale of one hundred percent. A certificate of registration shall be granted by the director to all qualified applicants who shall be certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

Sec. 3. Section 11, chapter 158, Laws of 1969 ex. sess. as amended by section 87, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.96.110 are each amended to read as follows:

Certificates of registration shall expire on the last day of June three years following their issuance or renewal. The director shall set the (~~yearly~~) fee for renewal which shall be determined as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086. Renewal may be effected during the month of June by payment to the director of the required fee.

In case any registrant fails to pay the renewal fee before thirty days after the due date, the renewal fee shall be the current fee plus an amount equal to one year's fee at the discretion of the board: PROVIDED, That any registrant in good standing, upon fully retiring from landscape architectural practice, may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current annual renewal fee. Any registrant, other than a properly withdrawn licensee, who fails to renew his registration for a period of one year may reinstate only on reexamination as is required for new registrants.

Sec. 4. Section 13, chapter 158, Laws of 1969 ex. sess. and RCW 18-.96.130 are each amended to read as follows:

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the director.

All charges unless dismissed by the director as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred.

An action of suspension, revocation, ((or)) refusal to renew, or a fine not exceeding one thousand dollars per violation by the director, shall be based upon the findings of the board after charges and evidence in support thereof have been heard and determined.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

- (1) Section 6, chapter 197, Laws of 1983 and RCW 43.131.265; and
- (2) Section 32, chapter 197, Laws of 1983 and RCW 43.131.266.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on June 30, 1985.

Passed the House March 12, 1985.

Passed the Senate March 27, 1985.

Approved by the Governor April 9, 1985.

Filed in Office of Secretary of State April 9, 1985.

CHAPTER 19

[Senate Bill No. 3144]

MODEL TRAFFIC ORDINANCE UPDATED

AN ACT Relating to the Model Traffic Ordinance; amending RCW 46.90.427; and reenacting and amending RCW 46.90.300 and 46.90.463.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 50, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 108, Laws of 1984 and by section 6, chapter 154, Laws of 1984 and RCW 46.90.300 are each reenacted and amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.260, 46.12.300, 46.12-.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.12.380, 46.16.010, 46-.16.025, 46.16.030, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180,

46.16.240, 46.16.260, 46.16.290, 46.16.381, 46.16.390, 46.16.500, 46.16-.505, 46.20.011, 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46-.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.393, 46.20.394, 46.20.410, 46.20-.416, 46.20.420, 46.20.430, 46.20.435, 46.20.440, 46.20.500, 46.20.510, 46-.20.550, 46.20.599, 46.20.600, 46.29.605, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37-.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46-.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.196, 46.37.200, 46.37.210, 46.37-.215, 46.37.220, 46.37.230, 46.37.240, 46.37.260, 46.37.270, 46.37.280, 46-.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37-.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46-.37.467, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37-.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46-.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.37.610, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44-.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46-.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46.44.180, 46.48.170, 46.52-.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46-.52.090, 46.52.100, 46.52.104, 46.52.106, 46.52.108, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.116, 46.52.117, 46.52.118, 46.52.119, 46.52-.1192, 46.52.1194, 46.52.1195, 46.52.1196, 46.52.1198, 46.52.145, 46.52-.150, 46.52.160, 46.52.170, 46.52.180, 46.52.190, 46.52.200, 46.52.210, 46.65.090, 46.79.120, and 46.80.010.

Sec. 2. Section 71, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 108, Laws of 1984 and RCW 46.90.427 are each amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.300, 46.61.305, 46.61.310, 46.61.315, 46.61.340, 46.61.345, 46.61-.350, 46.61.355, 46.61.365, 46.61.370, 46.61.375, 46.61.385, 46.61.400, 46-.61.415, 46.61.425, 46.61.427, 46.61.428, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.470, 46.61.475, 46.61-.500, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.519, 46.61.5191, 46.61.5195, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61-.565, 46.61.570, and 46.61.575.

Sec. 3. Section 83, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 3, chapter 108, Laws of 1984 and by section 7, chapter

154, Laws of 1984 and RCW 46.90.463 are each reenacted and amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.581, 46.61.582, 46.61.583, 46.61.590, 46.61.600, 46.61.605, 46.61-.606, 46.61.608, 46.61.610, 46.61.611, 46.61.612, 46.61.614, 46.61.615, 46-.61.620, 46.61.625, 46.61.630, 46.61.635, 46.61.640, 46.61.645, 46.61.655, 46.61.660, 46.61.665, 46.61.670, 46.61.675, 46.61.680, 46.61.685, 46.61-.687, and 46.61.690.

Passed the Senate February 4, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 20

[Senate Bill No. 3121]

DEPARTMENT OF TRANSPORTATION—AUTHORITY TO ENTER INTO AGREEMENTS WITH FEDERAL GOVERNMENT

AN ACT Relating to the department of transportation; and adding a new section to chapter 47.04 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 47.04 RCW a new section to read as follows:

The department of transportation is authorized to enter into and perform agreements with federal agencies as may be necessary to secure federal grants, loans, or other assistance on its own behalf or on behalf of other public or private recipients for:

- (1) Public transportation purposes, including but not limited to, bus transportation, specialized transportation services for the elderly and handicapped, and ride sharing activities; and
- (2) Rail transportation.

Passed the Senate February 6, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 21

[Substitute Senate Bill No. 3047]
WESTERN LIBRARY NETWORK

AN ACT Relating to a state library network; amending RCW 27.26.010, 27.26.020, 43.105.100, 43.105.110, 43.105.120, 43.105.130, 43.131.289, and 43.131.290; adding new sections to chapter 43.105 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 31, Laws of 1975-'76 2nd ex. sess. and RCW 27.26.010 are each amended to read as follows:

As used in this chapter, unless otherwise required by the context, the following definitions shall apply:

(1) "~~(Washington)~~ Western library network computer system" means the communication facilities, computers, and peripheral computer devices supporting the automated library system developed by the state of Washington;

(2) "Network" means the (~~Washington~~) western library network which is an organization of autonomous, geographically dispersed participants using the (~~Washington~~) w:stern library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems;

(3) "Resources" are library materials which include but are not limited to print, nonprint (e.g., audiovisual, realia, etc.), and microform formats; network resources such as software, hardware, and equipment; electronic and magnetic records; data bases; communication technology; facilities; and human expertise;

(4) "Telecommunications" includes any point to point transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, microwave radio, optical, or other electromagnetic system, including any intervening processing and storage serving a point to point system;

(5) "Interlibrary loan system" means the accepted procedures among libraries by which library materials are made available in some format to users of another library;

(6) "Reference and referral system" pertains to procedures among libraries whereby subject or fact-oriented queries may be referred to another institution when the answering resource or subject expertise is unavailable in the institution originally queried.

Sec. 2. Section 1, chapter 31, Laws of 1975-'76 2nd ex. sess. and RCW 27.26.020 are each amended to read as follows:

There is hereby established the (~~Washington~~) western library network, hereinafter called the network, which shall consist of the

((Washington)) western library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems.

Responsibility for the network shall reside with the Washington state library commission, except for certain automated data processing components as provided for and defined in chapter 43.105 RCW: PROVIDED, That all components, systems and programs operated pursuant to this section shall be approved by the data processing authority created pursuant to chapter 43.105 RCW. The commission shall adopt and promulgate policies, rules, and regulations consistent with the purposes and provisions of this chapter pursuant to chapter 34.04 RCW, the administrative procedure act, except that nothing in this chapter shall abrogate the authority of a participating library, institution, or organization to establish its own policies for collection development and use of its library resources.

Sec. 3. Section 1, chapter 110, Laws of 1975-'76 2nd ex. sess. and RCW 43.105.100 are each amended to read as follows:

As used in RCW 43.105.110 through 43.105.130 "((Washington)) western library network computer system" means the communication facilities, computers, and peripheral computer devices supporting the automated library system developed by the state of Washington.

Sec. 4. Section 2, chapter 110, Laws of 1975-'76 2nd ex. sess. and RCW 43.105.110 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "((Washington)) western library network computer system revolving fund" referred to in RCW 43.105.120 as "fund".

Sec. 5. Section 3, chapter 110, Laws of 1975-'76 2nd ex. sess. and RCW 43.105.120 are each amended to read as follows:

The fund shall be credited with all receipts from the rental, sale, or distribution of supplies, equipment, computer software, products, and services rendered to users and licensees of the ((Washington)) western library network computer system. All gifts, grants, donations, and other moneys received by the network shall be deposited in the fund. All expenditures from the fund shall be authorized by law.

Sec. 6. Section 4, chapter 110, Laws of 1975-'76 2nd ex. sess. and RCW 43.105.130 are each amended to read as follows:

The data processing authority and the state library commission shall develop jointly a schedule of user fees for users of the ((Washington)) western library network computer system and a schedule of charges for the network's products and licenses for the purpose of distributing and apportioning to such users, ~~((by the 1979-81 biennium;))~~ buyers, and licensees the full cost of operation and continued development of data processing and data communication services related to the network. Such schedule shall generate sufficient revenue to cover the costs ~~((, by the 1979-81 biennium;))~~ relating to the library network of:

(1) The acquisition of data processing and data communication services, supplies, and equipment handled or rented by the data processing authority or under its authority by any other state data processing service center designee; ~~((and))~~

(2) The payment of salaries, wages, and other costs including but not limited to the acquisition, operation, and administration of acquired data processing services, supplies, and equipment; and

(3) The promotion of network products and services.

As used in this section, the term "supplies" shall not be interpreted to delegate or abrogate the ~~((division of purchasing's))~~ state purchasing and material control director's responsibilities and authority to purchase supplies as provided for in chapter 43.19 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 43.105 RCW to read as follows:

The western library network may incur reasonable expenses directly related to the promotion of network products and services, including travel expenses, promotional publications, and exhibits.

NEW SECTION. Sec. 8. A new section is added to chapter 43.105 RCW to read as follows:

The western library network may enter into contracts with public or private vendors for a portion or portions of the promotion of the network when cost-effective or otherwise in the best interest of the users and may provide for the issuance of licenses for network software.

Sec. 9. Section 18, chapter 197, Laws of 1983 and RCW 43.131.289 are each amended to read as follows:

The ~~((Washington))~~ western library network under chapter 27.26 RCW shall be terminated on June 30, ~~((1985))~~ 1987, as provided in RCW 43.131.290.

Sec. 10. Section 44, chapter 197, Laws of 1983 and RCW 43.131.290 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((1986))~~ 1988:

(1) Section 2, chapter 31, Laws of 1975-'76 2nd ex. sess. and RCW 27.26.010; and

(2) Section 1, chapter 31, Laws of 1975-'76 2nd ex. sess. and RCW 27.26.020.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect June 30, 1985.

Passed the Senate March 12, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 22

[Substitute Senate Bill No. 3068]

MOBILE HOME SPECIAL MOVEMENT PERMIT—DECAL REQUIRED

AN ACT Relating to mobile homes; amending RCW 46.44.170 and 46.44.175; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 22, Laws of 1977 ex. sess. as amended by section 1, chapter 152, Laws of 1980 and RCW 46.44.170 are each amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 upon public highways of the state must obtain a special permit from the department of transportation and local authorities pursuant to RCW 46.44-.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46-.44.0941 and 46.44.096.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home shall not be valid until the county treasurer of the county in which the mobile home is located shall endorse or attach thereto his certificate that all property taxes due upon the mobile home being moved have been satisfied. Further, any mobile home required to have a special movement permit under this section shall display an easily recognizable decal: PROVIDED, That endorsement or certification by the county treasurer and the display of said decal is not required when a mobile home is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets. It shall be the responsibility of the owner of the mobile home or his agent to obtain such endorsement from the county treasurer and said decal.

(3) Nothing herein should be construed as prohibiting the issuance of vehicle license plates for a mobile home, but no such plates shall be issued unless the mobile home for which such plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for such license has been paid.

(4) The department of transportation and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the

design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this act.

Sec. 2. Section 4, chapter 22, Laws of 1977 ex. sess. as amended by section 78, chapter 136, Laws of 1979 ex. sess. and RCW 46.44.175 are each amended to read as follows:

Failure of any person or agent acting for a person who causes to be moved or moves a mobile home as defined in RCW 46.04.302 upon public highways of this state and failure to comply with any of the provisions of RCW 46.44.170 and 46.44.173 is a traffic infraction for which a penalty of not less than ~~((fifty))~~ one hundred dollars or more than ~~((one))~~ five hundred dollars shall be assessed. In addition to the above penalty, the department of transportation or local authority may withhold issuance of a special permit or suspend a continuous special permit as provided by RCW 46.44.090 and 46.44.093 for a period of not less than thirty days.

Any person who shall alter or forge the decal required by section 1 of this 1985 act, or who shall display a decal knowing it to have been forged or altered, shall be guilty of a gross misdemeanor.

Any person or agent who is denied a special permit or whose special permit is suspended may upon request receive a hearing before the department of transportation or the local authority having jurisdiction. The department or the local authority after such hearing may revise its previous action.

Passed the Senate February 6, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 23

[Senate Bill No. 3073]

TRUST ACT—WILLS—TECHNICAL CORRECTIONS

AN ACT Relating to wills; making technical corrections to the Washington Trust Act of 1984; reenacting RCW 11.12.250, 11.12.255, and 11.12.260; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 11.12.250, chapter 145, Laws of 1965 as amended by section 5, chapter 149, Laws of 1984 and RCW 11.12.250 are each reenacted to read as follows:

A gift may be made by a will to a trustee of a trust executed by any trustor or testator (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts) if (1) the trust is identified in the testator's will and (2) its terms are evidenced either (a) in a written instrument other than a will, executed by the trustor prior to or concurrently with the execution of the testator's will or (b) in the will of a person who has predeceased the testator, regardless of when executed. The existence, size, or character of the corpus of the trust is immaterial to the validity of the gift. Such gift shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the testator's will or after the testator's death. Unless the will provides otherwise, the property so given shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given to be administered and disposed of in accordance with the terms of the instrument establishing the trust, including any amendments, made prior to the death of the testator, and regardless of whether made before or after the execution of the will. Unless the will provides otherwise, an express revocation of the trust prior to the testator's death invalidates the gift. Any termination of the trust other than by express revocation does not invalidate the gift. For purposes of this section, the term "gift" includes the exercise of any testamentary power of appointment.

Sec. 3. Section 6, chapter 149, Laws of 1984 and RCW 11.12.255 are each reenacted to read as follows:

A will may incorporate by reference any writing in existence when the will is executed if the will itself manifests the testator's intent to incorporate the writing and describes the writing sufficiently to permit its identification. In the case of any inconsistency between the writing and the will, the will controls.

Sec. 4. Section 7, chapter 149, Laws of 1984 and RCW 11.12.260 are each reenacted to read as follows:

(1) A will may refer to a writing that directs disposition of tangible personal property not otherwise specifically disposed of by the will other than property used primarily in trade or business. Such a writing shall not be effective unless: (a) An unrevoked will refers to the writing, (b) the writing is either in the handwriting of, or signed by, the testator, and (c) the writing describes the items and the recipients of the property with reasonable certainty.

(2) The writing may be written or signed before or after the execution of the will and need not have significance apart from its effect upon the dispositions of property made by the will. A writing that meets the requirements of this section shall be given effect as if it were actually contained in the will itself, except that if any person designated to receive property in the writing dies before the testator, the property shall pass as further directed in

the writing and in the absence of any further directions, the disposition shall lapse and RCW 11.12.110 shall not apply to such lapse.

(3) The testator may make subsequent handwritten or signed changes to any writing. If there is an inconsistent disposition of tangible personal property as between writings, the most recent writing controls.

(4) As used in this section "tangible personal property" means articles of personal or household use or ornament, for example, furniture, furnishings, automobiles, boats, airplanes, and jewelry, as well as precious metals in any tangible form, for example, bullion or coins. The term includes articles even if held for investment purposes and encompasses tangible property that is not real property. The term does not include mobile homes or intangible property, for example, money that is normal currency or normal legal tender, evidences of indebtedness, bank accounts or other monetary deposits, documents of title, or securities.

NEW SECTION. Sec. 5. This act shall apply to wills of decedents dying after December 31, 1984.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 29, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 24

[Senate Bill No. 3076]

NONJUDICIAL RESOLUTION OF TRUST PROVISIONS—FILING FEES

AN ACT Relating to filing fees for the nonjudicial resolution of certain trust provisions; amending RCW 36.18.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 38, Laws of 1973 as last amended by section 29, chapter 263, Laws of 1984 and RCW 36.18.020 are each amended to read as follows:

Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said

paper is filed, a fee of seventy dollars except in proceedings filed under RCW 26.50.030 where the petitioner shall pay a filing fee of twenty dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of seventy dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in his office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of seventy dollars: **PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection (12) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.**

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a

written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of seventy dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of four dollars.

(15) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(16) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of seventy dollars.

(17) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(18) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW ((26.36.010)) 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 29, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 25

[Senate Bill No. 4122]

FLOUR AND BREAD—PRESCRIBED CONTENT.MODIFIED

AN ACT Relating to the contents of flour and bread; and amending RCW 69.08.030 and 69.08.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 192, Laws of 1945 and RCW 69.08.030 are each amended to read as follows:

It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour, as defined in RCW 69.08.010, unless the following vitamins and minerals are contained in each pound of such flour((:)): Not less than ((2.0 mg and not

~~more than 2.5)) 2.9 mg of thiamine; not less than ((1.2 mg and not more than 1.5)) 1.8 mg of riboflavin; not less than ((16.0 mg and not more than 20.0)) 24.0 mg of niacin or niacin-amide; not less than ((13.0 mg and not more than 16.5)) 20.0 mg of iron (Fe); except in the case of self-rising flour which in addition to the above ingredients ((shall)) may contain ((not less [than] 500 mg and not more than 1500)) 960.0 mg of calcium (Ca): PROVIDED, ((HOWEVER,)) That the terms of this section shall not apply to flour sold to distributors, bakers or other processors, if the purchaser furnishes to the seller a certificate in such form as the director shall by ((regulation)) rule prescribe, certifying that such flour will be (1) resold to a distributor, baker or other processor, or (2) used in the manufacture, mixing or compounding of flour, white bread or rolls enriched to meet the requirements of this chapter, or (3) used in the manufacture of products other than flour, white bread or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate to use or resell the flour so purchased in any manner other than as prescribed in this section.~~

Sec. 2. Section 3, chapter 192, Laws of 1945 and RCW 69.08.040 are each amended to read as follows:

It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, for human consumption in this state, any white bread or rolls as defined in RCW 69.08.010, unless the following vitamins and minerals are contained in each pound of such bread or rolls: Not less than ~~((1.1 mg and not more than))~~ 1.8 mg of thiamine; not less than ~~((0.7 mg and not more than 1.6))~~ 1.1 mg of riboflavin; not less than ~~((10.0 mg and not more than))~~ 15.0 mg of niacin; not less than ~~((8.0 mg and not more than))~~ 12.5 mg of iron (Fe).

Passed the Senate March 8, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 26

[Senate Bill No. 4121]

AGRICULTURAL COMMODITY COMMISSIONS—AGRICULTURAL DEVELOPMENT, TRADE PROMOTION, AND PROMOTIONAL HOSTING

AN ACT Relating to agriculture; adding a new section to chapter 15.04 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 15.04 RCW to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural

development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1986, if the proposed amendment to Article VIII, of the state Constitution authorizing agricultural commodity assessments for agricultural development or trade promotion and promotional hosting to be deemed a public use for a public purpose is validly submitted to and is approved and ratified by the voters at a general election held in November 1985. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the Senate March 8, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 27

[Senate Bill No. 3576]

LAKE OSOYOOS WATER PROJECT—JOINT VENTURE WITH BRITISH COLUMBIA

AN ACT Relating to a Lake Osoyoos water project; amending RCW 43.21A.450; and amending section 2, chapter 76, Laws of 1982 (uncodified).

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 76, Laws of 1982 and RCW 43.21A.450 are each amended to read as follows:

(1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international lake, and in connection

therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section.

Sec. 2. Section 2, chapter 76, Laws of 1982 (uncodified) is amended to read as follows:

It is the intent of this legislature in enacting ~~((this act))~~ RCW 43.21A.450 that total capital costs ~~((and annual operations and maintenance costs))~~ for the said project be shared equally by Washington state and British Columbia.

Passed the Senate March 8, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 28

[Senate Bill No. 3368]

INEDIBLE SALMON—SALE FOR HUMAN CONSUMPTION PROHIBITED

AN ACT Relating to the sale of salmon; and amending RCW 75.08.255.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.12.130, chapter 12, Laws of 1955 as last amended by section 26, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.08.255 are each amended to read as follows:

(1) The director may take or remove any species of fish or shellfish from the waters or beaches of the state.

(2) The director may sell food fish or shellfish caught or taken during department test fishing operations. Salmon taken in test fishing operations shall only be sold during a season open to commercial fishing in the district in which the test fishing is conducted.

(3) The director shall not sell (~~spawned-out salmon carcasses or salmon in spawning condition~~) inedible salmon for human consumption. ~~((The))~~ Salmon and carcasses may be given to state institutions or schools or to economically depressed people, unless the salmon are unfit for human consumption. Salmon not fit for human consumption may be sold by the director for animal food, fish food, or for industrial purposes.

(4) In the sale of surplus salmon from state hatcheries, the division of purchasing shall require that a portion of the surplus salmon be processed and returned to the state by the purchaser. The processed salmon shall be fit for human consumption and in a form suitable for distribution to individuals. The division of purchasing shall establish the required percentage at a level that does not discourage competitive bidding for the surplus salmon. The measure of the percentage is the combined value of all of the surplus salmon sold. The department of social and health services shall distribute the processed salmon to economically depressed individuals and state institutions pursuant to rules adopted by the department of social and health services.

Passed the Senate February 8, 1985.

Passed the House March 27, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 29

[Engrossed Senate Bill No. 4169]

THOMAS BURKE MEMORIAL WASHINGTON STATE MUSEUM

AN ACT Relating to the state museum of the University of Washington; amending RCW 27.40.010; repealing RCW 43.131.263 and 43.131.264; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 30, Laws of 1899 and RCW 27.40.010 are each amended to read as follows:

The Thomas Burke Memorial Washington State Museum of the University of Washington is hereby constituted the state natural history and anthropology museum as a ~~((depository))~~ repository for the preservation ~~((and))~~, exhibition, interpretation, and conservation of documents and objects ~~((possessing an historical value, of materials illustrating the fauna, flora, anthropology, mineral wealth, and natural resources of the state, and for all documents and objects whose preservation will be of value to the student~~

of history and the natural sciences)) of a systematic anthropological, geological, and zoological character for the state.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

- (1) Section 5, chapter 197, Laws of 1983 and RCW 43.131.263; and
- (2) Section 31, chapter 197, Laws of 1983 and RCW 43.131.264.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on June 30, 1985.

Passed the Senate March 11, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 30

[Senate Bill No. 3072]

TRUST ACT—FIDUCIARIES—TECHNICAL CORRECTIONS

AN ACT Relating to fiduciaries; making technical corrections to the Washington Trust Act of 1984; reenacting and amending RCW 11.68.090, 11.93.020, 11.93.912, 11.94.010, 11.94.020, 11.94.030, 11.94.040, 11.94.050, 11.94.060, 11.95.060, 11.95.070, 11.98.019, 11.98.029, 11.98.039, 11.98.070, 11.98.080, 11.98.110, 11.98.900, 11.100.023, 11.100.025, 11.100.060, 11.104.040, 11.104.050, 11.104.120, 11.104.130, 11.106.050, 11.108.040, 11.108.050, 11.108.900, and 11.110.060; reenacting RCW 11.02.001, 11.02.005, 11.28.240, 11.36.021, 11.68.110, 11.92.040, 11.92.140, 11.92.150, 11.93.010, 11.93.030, 11.93.040, 11.93.050, 11.93.060, 11.93.070, 11.93.080, 11.93.900, 11.93.910, 11.93.911, 11.93.920, 11.95.010, 11.95.020, 11.95.030, 11.95.040, 11.95.050, 11.97.010, 11.97.900, 11.98.009, 11.98.016, 11.98.045, 11.98.051, 11.98.055, 11.98.060, 11.98.065, 11.98.090, 11.98.100, 11.98.130, 11.98.140, 11.98.150, 11.98.160, 11.98.170, 11.98.910, 11.98.920, 11.100.010, 11.100.015, 11.100.020, 11.100.030, 11.100.035, 11.100.037, 11.100.040, 11.100.050, 11.100.070, 11.100.090, 11.100.120, 11.100.130, 11.100.140, 11.102.010, 11.102.020, 11.102.030, 11.102.040, 11.102.050, 11.104.010, 11.104.020, 11.104.030, 11.104.060, 11.104.070, 11.104.080, 11.104.090, 11.106.010, 11.106.020, 11.106.030, 11.106.040, 11.106.060, 11.106.070, 11.106.080, 11.106.090, 11.106.100, 11.106.110, 11.108.010, 11.108.020, 11.108.030, 11.108.060, 11.110.010, 11.110.020, 11.110.040, 11.110.050, 11.110.070, 11.110.073, 11.110.075, 11.110.080, 11.110.090, 11.110.100, 11.110.110, 11.110.120, 11.110.125, 11.110.130, 11.110.140, 11.110.200, 11.110.210, 11.110.220, 11.110.230, 11.110.240, 11.110.250, 11.110.260, 11.110.900, 30.04.310, and 68.44.030; adding a new section to chapter 11.02 RCW; adding a new section to chapter 11.94 RCW; adding a new section to chapter 11.98 RCW; adding a new section to chapter 11.104 RCW; creating new sections; repealing RCW 11.16.050, 11.98.029, 21.25.010, 21.25.020, 21.25.030, 21.25.040, 21.25.050, 21.25.060, 21.25.070, 21.25.080, 21.25.090, 21.25.100, 21.25.110, 21.25.900, and 30.24.060; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

NEW SECTION. Sec. 2. Chapter 149, Laws of 1984, as amended and reenacted in this act and in SB —(Z-557/85), SB — (Z-449/85), SB — (Z-450/85), SB — (Z-471/85), SB — (Z-474/85), and SB — (Z-476/85) shall be known as the Washington trust act of 1984.

Sec. 3. Section 179, chapter 149, Laws of 1984 and RCW 11.02.001 are each reenacted to read as follows:

Section headings, as found in Title 11 RCW, do not constitute any part of the law.

Sec. 4. Section 11.02.005, chapter 145, Laws of 1965 as last amended by section 4, chapter 149, Laws of 1984 and RCW 11.02.005 are each reenacted to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the intestate's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020 and includes all codicils.

(9) "Codicil" means an instrument that is validly executed in the manner provided by this title for a will and that refers to an existing will for the purpose of altering or changing the same, and which need not be attached thereto.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) Words that import the singular number may also be applied to the plural of persons and things.

(16) Words importing the masculine gender only may be extended to females also.

Sec. 5. Section 11.28.240, chapter 145, Laws of 1965 as amended by section 8, chapter 149, Laws of 1984 and RCW 11.28.240 are each reenacted to read as follows:

At any time after the issuance of letters testamentary or of administration or certificate of qualification upon the estate of any decedent, any person interested in the estate as an heir, devisee, distributee, legatee or creditor whose claim has been duly served and filed, or the lawyer for the heir, devisee, distributee, legatee, or creditor may serve upon the personal representative or upon the lawyer for the personal representative, and file with the clerk of the court wherein the administration of the estate is pending, a written request stating that the person desires special notice of any or all of the following named matters, steps or proceedings in the administration of the estate, to wit:

(1) Filing of petitions for sales, leases, exchanges or mortgages of any property of the estate.

(2) Petitions for any order of solvency or for nonintervention powers.

(3) Filing of accounts.

(4) Filing of petitions for distribution.

(5) Petitions by the personal representative for family allowances and homesteads.

(6) The filing of a declaration of completion.

(7) The filing of the inventory.

(8) Notice of presentation of personal representative's claim against the estate.

(9) Petition to continue a going business.

(10) Petition to borrow upon the general credit of the estate.

(11) Petition for judicial ((~~proceeding[s]~~)) proceedings under chapter 11.96 RCW.

(12) Petition to reopen an estate.

(13) Intent to distribute estate assets, other than distributions in satisfaction of specific bequests or legacies of specific dollar amounts.

(14) Intent to pay attorney's or personal representative's fees.

The requests shall state the post office address of the heir, devisee, distributee, legatee or creditor, or his or her lawyer, and thereafter a brief notice of the filing of any of the petitions, accounts, declaration, inventory or claim, except petitions for sale of perishable property, or other tangible personal property which will incur expense or loss by keeping, shall be addressed to the heir, devisee, distributee, legatee or creditor, or his or her lawyer, at the post office address stated in the request, and deposited in the United States post office, with prepaid postage, at least ten days before the hearing of the petition, account or claim or of the proposed distribution or payment of fees; or personal service of the notices may be made on the heir, devisee, distributee, legatee, creditor, or lawyer, not less than five days before the hearing, and the personal service shall have the same effect as deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the petition, account or claim or of the proposed distribution or payment of fees. If the notice has been regularly given, any distribution or payment of fees and any order or judgment, made in accord therewith is final and conclusive.

Sec. 6. Section 9, chapter 149, Laws of 1984 and RCW 11.36.021 are each reenacted to read as follows:

(1) The following may serve as trustees:

(a) Any suitable persons over the age of eighteen years, if not otherwise disqualified;

(b) Any trust company regularly organized under the laws of this state and national banks when authorized to do so;

(c) Any nonprofit corporation, if the articles of incorporation or bylaws of that corporation permit the action and the corporation is in compliance with all applicable provisions of Title 24 RCW;

(d) Any professional service corporations regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys; and

(c) Any other entity so authorized under the laws of the state of Washington.

(2) The following are disqualified to serve as trustees:

(a) Minors, persons of unsound mind, or persons who have been convicted of any felony or a misdemeanor involving moral turpitude; and

(b) A corporation organized under Title 23A RCW that is not authorized under the laws of the state of Washington to act as a fiduciary.

Sec. 7. Section 21, chapter 117, Laws of 1974 ex. sess. as amended by section 10, chapter 149, Laws of 1984 and RCW 11.68.090 are each reenacted and amended to read as follows:

Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise do anything a trustee may do under RCW 11.98.070 and chapters ((~~11.98~~)) 11.100(;;) and 11.102 RCW with regard to the assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Any party to any such transaction and his or her successors in interest shall be entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.

Sec. 8. Section 23, chapter 117, Laws of 1974 ex. sess. as last amended by section 11, chapter 149, Laws of 1984 and RCW 11.68.110 are each reenacted to read as follows:

If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration to that effect, which declaration shall state as follows:

(1) The date of the decedent's death^h, and the decedent's residence at the time of death, whether or not the decedent died testate or intestate, and if testate, the date of the decedent's last will and testament and the date of the order admitting the will to probate;

(2) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of state inheritance and federal estate tax due as the result of the decedent's death has been determined, settled, and paid;

(3) The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(4) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(5) The amount of fees paid or to be paid to each of the following: (a) Personal representative or representatives, (b) lawyer or lawyers, (c) appraiser or appraisers, and (d) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

Within five days of the date of the filing of the declaration of completion, the personal representative or the representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent (who has not waived notice of said filing, in writing, filed in the cause) together with a notice which shall be substantially as follows:

CAPTION
OF
CASE

NOTICE OF FILING OF
DECLARATION OF COMPLETION
OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the day of, 19..; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this day of , 19. . .

.....

Personal Representative

If all heirs, devisees, and legatees of the decedent waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

Sec. 9. Section 11.92.040, chapter 145, Laws of 1965 as last amended by section 12, chapter 149, Laws of 1984 and RCW 11.92.040 are each reenacted to read as follows:

It shall be the duty of the guardian or limited guardian:

(1) To make out and file within three months after his or her appointment a verified inventory of all the property of the incompetent or disabled person which comes to his or her possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within thirty days after the anniversary date of the guardian's or limited guardian's appointment, and also within thirty days after termination of the appointment, a written verified account of the administration: PROVIDED, That the court in its discretion may allow reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of the substantial increase or change;

(3) Consistent with the powers granted by the court, if he or she is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests, and provide timely, informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. As provided in RCW 11.88.125 as now or hereafter amended, the standby guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. The guardian or limited guardian of the person may be required to report the condition of his or her incompetent or disabled person to the court, at regular intervals

or otherwise as the court may direct: PROVIDED, That no guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed: PROVIDED FURTHER, That nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Amputation;
- (d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian, limited guardian, or standby guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved that procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended;

(4) If he or she is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period not exceeding one year following the date

of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person: PROVIDED, HOWEVER, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incompetent or disabled person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof.

Sec. 10. Section 13, chapter 149, Laws of 1984 and RCW 11.92.140 are each reenacted to read as follows:

The court, upon the petition of a guardian of the estate of an incompetent or disabled person (collectively hereafter referred to in this section as "incompetent"), other than the guardian of a minor, and after such notice as the court directs and other notice to all persons interested as required by chapter 11.96 RCW, may authorize the guardian to take any action, or to apply funds not required for the incompetent's own maintenance and support, in any fashion the court approves as being in keeping with the incompetent's wishes so far as they can be ascertained and as designed to minimize insofar as possible current or prospective state or federal income and estate taxes, and to provide for gifts to such charities, relatives, and friends as would be likely recipients of donations from the incompetent.

The action or application of funds may include but shall not be limited to the making of gifts, to the conveyance or release of the incompetent's contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by

the entirety, to the exercise or release of the incompetent's powers as donee of a power of appointment, the making of contracts, the creation of revocable or irrevocable trusts of property of the incompetent's estate which may extend beyond the incompetent's disability or life, the exercise of options of the incompetent to purchase securities or other property, the exercise of the incompetent's right to elect options and to change beneficiaries under insurance and annuity policies and the surrendering of policies for their cash value, the exercise of the incompetent's right to any elective share in the estate of the incompetent's deceased spouse, and the renunciation or disclaimer of any interest acquired by testate or intestate succession or by inter vivos transfer.

The guardian in the petition shall briefly outline the action or application of funds for which approval is sought, the results expected to be accomplished thereby and the tax savings expected to accrue. The proposed action or application of funds may include gifts of the incompetent's personal or real property. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the incompetent, or may be made to individuals or charities in which the incompetent is believed to have an interest. Gifts may or may not, in the discretion of the court, be treated as advancements to donees who would otherwise inherit property from the incompetent under the incompetent's will or under the laws of descent and distribution. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the incompetent insofar as the intentions can be ascertained, and if the incompetent's intentions cannot be ascertained, the incompetent will be presumed to favor reduction in the incidence of the various forms of taxation and the partial distribution of the incompetent's estate as provided in this section. The guardian shall not, however, be required to include as a beneficiary any person whom there is reason to believe would be excluded by the incompetent. No guardian may be required to file a petition as provided in this section, and a failure or refusal to so petition the court does not constitute a breach of the guardian's fiduciary duties.

Sec. 11. Section 11.92.150, chapter 145, Laws of 1965 as last amended by section 14, chapter 149, Laws of 1984 and RCW 11.92.150 are each re-enacted to read as follows:

At any time after the issuance of letters of guardianship in the estate of any incompetent or disabled person, any person interested in the estate, or in the incompetent or disabled person, or any relative of the incompetent or disabled person, or any authorized representative of any agency, bureau, or department of the United States government from or through which any compensation, insurance, pension or other benefit is being paid, or is payable, may serve upon the guardian or limited guardian, or upon the attorney for the guardian or limited guardian, and file with the clerk of the court where the administration of the guardianship or limited guardianship estate

is pending, a written request stating that special written notice is desired of any or all of the following matters, steps or proceedings in the administration of the estate:

(1) Filing of petition for sales, exchanges, leases, mortgages, or grants of easements, licenses, or similar interests in any property of the estate.

(2) Filing of all intermediate or final accountings or accountings of any nature whatsoever.

(3) Petitions by the guardian or limited guardian for family allowances or allowances for the incompetent or disabled person or any other allowance of every nature from the funds of the estate.

(4) Petitions for the investment of the funds of the estate.

(5) Petition to terminate guardianship or limited guardianship or petition for adjudication of competency.

(6) Petition for judicial proceedings under chapter 11.96 RCW.

The request for special written notice shall designate the name, address and post office address of the person upon whom the notice is to be served and no service shall be required under this section and RCW 11.92.160 as now or hereafter amended other than in accordance with the designation unless and until a new designation has been made.

When any account, petition, or proceeding is filed in the estate of which special written notice is requested, the court shall fix a time for hearing which shall allow at least ten days for service of the notice before the hearing; and notice of the hearing shall be served upon the person designated in the written request at least ten days before the date fixed for the hearing. The service may be made by leaving a copy with the person designated, or that person's authorized representative, or by mailing through the United States mail, with postage prepaid to the person and place designated.

Sec. 12. Section 1, chapter 202, Laws of 1959 as last amended by section 16, chapter 149, Laws of 1984 and RCW 11.93.010 are each reenacted to read as follows:

In this chapter, unless the context otherwise requires:

(1) A "bank" is a bank, trust company, national banking association, or mutual savings bank.

(2) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(3) "Court" means the superior courts of the state of Washington.

(4) The "custodial property" includes:

(a) Any property transferred to the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

(b) The income from the custodial property; and

(c) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such custodial property.

(5) A "custodian" is a person who is eighteen years or older and is designated as custodian in a manner prescribed in this chapter; the term includes a successor custodian.

(6) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or credit union chartered and supervised under the laws of a state; an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation, or by the federal savings and loan insurance corporation, or by a deposit insurance fund approved by this state.

(7) A "guardian" of a minor means the general guardian, guardian, tutor or curator of the minor's property, or estate appointed or qualified by a court of this state or another state.

(8) An "issuer" is a person who places or authorizes the placing of his or her name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his or her property or in an enterprise or to evidence his or her duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(9) A "legal representative" of a person is his or her personal representative, executor or administrator, general guardian, guardian, committee, conservator, tutor, or curator of his or her property or estate.

(10) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this chapter or on the life of a member of the minor's family.

(11) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption, a stepparent or person who has raised a child without the formality of a guardianship, or close family friend.

(12) A "minor" is a person who has not attained the age of twenty-one years.

(13) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under

such a title or lease, any interest in a general or limited partnership, collateral trust certificate, transferable share, voting trust certificate, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(14) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(15) A "trust company" is a bank or corporation organized under the laws of the state of Washington that is authorized to engage in trust business.

(16) A "real property interest" includes any note, mortgage, contract to purchase or sell real property, option to purchase or to sell real property, deed evidencing any title to or interest in real property, or, in general, any interest or instrument commonly recognized as evidencing or purporting to evidence an interest in real property, however minimal. The term does not include a "security" within the definition set forth in subsection (13) of this section.

Sec. 13. Section 2, chapter 202, Laws of 1959 as last amended by section 17, chapter 149, Laws of 1984 and RCW 11.93.020 are each reenacted and amended to read as follows:

(1) A person who is eighteen years or older may, outright or by a trust agreement executed during his or her lifetime or by will, make or provide for a gift of tangible or intangible personal property, including securities, money, life insurance policies, annuity contracts, or real property interests to a person who is a minor on the date of the gift or distribution:

(a) If the subject of the gift is a security in registered form, by registering it in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(b) If the subject of the gift is a security not in registered form, by delivering it to a person who is eighteen years or older other than the donor or a trust company accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE WASHINGTON UNIFORM GIFTS TO MINORS ACT

I, (name of donor), hereby deliver to (name of custodian) as custodian for (name of minor) under the Washington uniform gifts to minors act, the following property: (Insert an appropriate description of the tangible or intangible property delivered sufficient to identify it or them)
..... (signature of donor) (name of custodian) hereby acknowledges receipt of the above described property as custodian for the above minor under the Washington uniform gifts to minors act.

Dated: (signature of custodian)";

(c) If the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(d) If the subject of the gift is a real property interest and constitutes a recordable interest or charge in or against real property in the records of the county auditor or recorder, by registering it in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(e) If the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "as custodian for (name of minor) under the Washington uniform gifts to minors act";

(f) If the gift is by will or as a distribution under a trust agreement, by the legal representative or trustee delivering the subject of the gift to the person, who is eighteen years or older, or a trust company designated by the decedent or settlor to serve as custodian for the minor under the Washington uniform gifts to minors act or similar uniform act of the domicile of the designated custodian and causing the subject of the gift to be registered in the name of that custodian, followed, in substance, by the words: "As custodian for (name of minor) under the Washington (or, alternatively, state of the custodian's domicile) uniform gifts to minor's act." If the decedent or settlor fails to designate a specific custodian or if the designated custodian dies or is unable or unwilling to serve, the legal representative, with the approval of the court having jurisdiction over the decedent's estate, or the trustee may designate a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company as

custodian. The legal representative or trustee may designate himself or herself as custodian, provided he or she falls within the class of persons or entities permitted in this subsection. The custodian's receipt constitutes a sufficient release and discharge of further accountability by the legal representative or trustee for the gift and acceptance of the custodianship by the custodian.

(2) Each gift made in a manner prescribed in subsection (1) of this section may be made to only one minor and only one person may be the custodian.

(3) A donor who makes a gift to a minor in a manner prescribed in subsection (1) of this section shall promptly do all things within his or her power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his or her designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

(4) The legal representative of an estate to whom a certificate of qualification, or letters testamentary or of administration are issued may, with the approval of the court having jurisdiction over the decedent's estate, or the trustee of a trust of which a minor is a distributee or beneficiary may pay or transfer to a custodian for the minor under this chapter or a similar uniform act of the jurisdiction in which the minor may be domiciled, in the form and manner prescribed in subsection (1) (a) through (c) of this section or comparable provisions of the uniform act of the other jurisdiction, any money, security, or other property qualifying for custodial gifts which is distributable to the minor. The legal representative or trustee may make distribution in this manner if the legal representative or the trustee deems it to be in the best interests of the minor, except where the decedent, settlor, or court authorizing the distribution has expressly directed that distribution of the property due that minor shall not be made in the manner provided for in this subsection. The legal representative, with the approval of the court having jurisdiction over the decedent's estate, or the trustee shall designate a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company as custodian. The legal representative or trustee may designate himself or herself as custodian, provided he or she falls within the class of persons or entities permitted in this subsection. This chapter governs the custodianship in the same manner as though the legal representative or trustee were the donor. The custodian's receipt constitutes a sufficient release of the transferor and discharge of further accountability by the legal representative or trustee for the property distributed and acceptance of the custodianship by the custodian. Subject to specific directions in the governing instrument, no legal representative or trustee may be required to pay or transfer to a custodian property otherwise distributable to a

minor. A failure or refusal to distribute property to a custodian as authorized in this section does not constitute a breach of the legal representative's or trustee's fiduciary duties.

(5) Only property that could be the subject of a lifetime gift under this chapter may be distributed under subsections (1)(f) and (4) of this section.

(6) This section is applicable to gifts made before or after January 1, 1985, and regardless of whether the persons who made the gifts are alive on that date.

Sec. 14. Section 3, chapter 202, Laws of 1959 as last amended by section 18, chapter 149, Laws of 1984 and RCW 11.93.030 are each reenacted to read as follows:

(1) A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, real property, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(2) By making a gift in a manner prescribed in this chapter, the donor incorporates in the gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this chapter.

Sec. 15. Section 4, chapter 202, Laws of 1959 as last amended by section 19, chapter 149, Laws of 1984 and RCW 11.93.040 are each reenacted to read as follows:

(1) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(2) The custodian shall pay over to the minor for expenditure by the minor, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in the custodian's discretion deems suitable and proper, with or without court order, with or without regard to the duty of the custodian or of any other person to support the minor or his or her ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(3) The court, on the petition of a parent or guardian of the minor or of the minor, if the minor has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by the minor or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(4) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on attaining the age of twenty-one years, or, if the minor dies before attaining the age of twenty-

one year, the custodian shall thereupon deliver or pay it over to the estate of the minor.

(5) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent person of discretion and intelligence who is seeking a reasonable income and the preservation of capital, except that the custodian may, in his or her discretion and without liability to the minor or the minor's estate, retain a security given to the minor in a manner prescribed in this chapter or hold money so given in an account in a financial institution to which it was paid or delivered by the donor.

(6) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms the custodian deems advisable. The custodian may vote in person or by general or limited proxy a security which is custodial property. The custodian may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge, or mortgage of any property by or to such an issuer, and to any other action by such an issuer. The custodian may execute and deliver any and all instruments in writing which the custodian deems advisable to carry out any power as custodian.

(7) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for (name of minor) under the Washington uniform gifts to minors act". The custodian shall hold all money which is custodial property in an account with a broker or in an insured financial institution in the name of the custodian, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act". The custodian shall keep all other custodial property separate and distinct from the custodian's own property in a manner to identify it clearly as custodial property.

(8) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if the minor has attained the age of fourteen years.

(9) A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this chapter, all the rights and powers which a guardian has with respect to property not held as custodial property, and all the rights and powers of a trustee under RCW 11.98.070.

(10) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(a) In the capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if the custodian were the owner, except that the designated beneficiary of any policy or contract on the life

of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom the custodian is acting; and

(b) May pay premiums on the policy or contract out of the custodial property.

Sec. 16. Section 5, chapter 202, Laws of 1959 as amended by section 20, chapter 149, Laws of 1984 and RCW 11.93.050 are each reenacted to read as follows:

(1) A custodian is entitled to reimbursement from the custodial property for reasonable expenses incurred in the performance of custodial duties.

(2) A custodian may act without compensation for services.

(3) Unless he or she is a donor, a custodian may receive from the custodial property reasonable compensation for his or her services determined by one of the following standards in the order stated:

(a) A direction by the donor when the gift is made; or

(b) An order of the court.

(4) Except as otherwise provided in this chapter, a custodian shall not be required to give a bond for the performance of his or her duties.

(5) A custodian not compensated for services is not liable for losses to the custodial property unless they result from bad faith, intentional wrongdoing, or gross negligence, or from failure to maintain the standard of prudence in investing the custodial property provided in this chapter.

Sec. 17. Section 6, chapter 202, Laws of 1959 as last amended by section 21, chapter 149, Laws of 1984 and RCW 11.93.060 are each reenacted to read as follows:

No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter, or is obliged to inquire into the validity or propriety under this chapter of any instrument of instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to the custodian. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subsection (1) of RCW 11.93.070 by a minor to whom a gift has been made in a manner prescribed in this chapter,

and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this chapter of the instrument of designation.

Sec. 18. Section 7, chapter 202, Laws of 1959 as last amended by section 22, chapter 149, Laws of 1984 and RCW 11.93.070 are each reenacted to read as follows:

(1) Only a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company is eligible to become successor custodian. A custodian may designate a successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate a successor before the custodian dies or becomes legally incapacitated and the minor has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties, and immunities of a custodian designated in a manner prescribed by this chapter.

(2) The designation of a successor custodian as provided in subsection (1) takes effect as to each item of the custodial property when the custodian resigns, dies, or becomes legally incapacitated and the custodian or his or her legal representative:

(a) Causes the item if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act"; and

(b) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(3) A custodian who executes an instrument of designation of a successor containing the custodian's resignation as provided in subsection (1) of this section shall promptly do all things within his or her power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his or her power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (1) of this section by the custodian or, if none, by the minor if the minor has no guardian and has attained the age of fourteen years, or in the possession and control of the

guardian of the minor if the minor has a guardian. If the custodian has executed as provided in subsection (1) of this section more than one instrument of designation, the custodian's legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(4) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (1) of this section is not eligible, dies, or becomes legally incapacitated before the minor attains the age of twenty-one years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (1) of this section, a donor, his or her legal representative, the legal representative of the custodian, or an adult member of the minor's family may petition the court for the designation of a successor custodian.

(5) A donor, the legal representative of a donor, a successor custodian, a member of the minor's family who is eighteen years or older, or a guardian of the minor or the minor if the minor has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his or her duties.

(6) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

Sec. 19. Section 8, chapter 202, Laws of 1959 as amended by section 23, chapter 149, Laws of 1984 and RCW 11.93.080 are each reenacted to read as follows:

(1) The minor, if the minor has attained the age of fourteen years, or the legal representative of the minor, a member of the minor's family who is eighteen years or older, or a donor or his or her legal representative may petition the court for an accounting by the custodian or the custodian's legal representative.

(2) The court, in a proceeding under this chapter or otherwise, may require or permit the custodian or the custodian's legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

Sec. 20. Section 10, chapter 202, Laws of 1959 and RCW 11.93.900 are each reenacted to read as follows:

This chapter may be cited as the "Washington uniform gifts to minors act".

Sec. 21. Section 9, chapter 202, Laws of 1959 and RCW 11.93.910 are each reenacted to read as follows:

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

(2) This chapter shall not be construed as providing an exclusive method for making gifts to minors.

Sec. 22. Section 7, chapter 88, Laws of 1967 ex. sess. and RCW 11.93.911 are each reenacted to read as follows:

The provisions of chapter 202, Laws of 1959 hereby amended as hereby amended shall be construed as a continuation of chapter 202, Laws of 1959 hereby amended according to the language employed and not as a new enactment. This amendment of chapter 202, Laws of 1959 hereby amended does not affect gifts made in a manner prescribed therein nor the powers, duties or immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. The provisions of chapter 202, Laws of 1959 hereby amended as hereby amended henceforth apply, however, to all gifts made in a manner and form prescribed in chapter 202, Laws of 1959 hereby amended except insofar as such application impairs constitutionally vested rights.

Sec. 23. Section 25, chapter 149, Laws of 1984 and RCW 11.93.912 are each reenacted and amended to read as follows:

All custodianships established prior to January 1, 1985, that have not been fully distributed as of that date shall not terminate upon the minor attaining the age of eighteen, but these custodianships shall remain operative until the minor reaches the age of twenty-one or sooner dies, except that, as to any custodianship established after August 9, 1971, but before January 1, 1985, a minor has the right after attaining the age of eighteen to demand delivery from the custodian of all or any portion of the custodianship property.

Sec. 24. Section 11, chapter 202, Laws of 1959 and RCW 11.93.920 are each reenacted to read as follows:

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sec. 25. Section 52, chapter 117, Laws of 1974 ex. sess. as amended by section 26, chapter 149, Laws of 1984 and RCW 11.94.010 are each reenacted and amended to read as follows:

(1) Whenever a principal designates another ((the)) as his or her attorney in fact or agent₁ by a power of attorney in writing₂ and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon

the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable (~~by the principal in the power~~) on behalf of the principal as provided notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. A principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

(2) Persons shall place reasonable reliance on any determination of disability or incompetence as provided in the instrument that specifies the time and the circumstances under which the power of attorney document becomes effective.

Sec. 26. Section 53, chapter 117, Laws of 1974 ex. sess. as last amended by section 27, chapter 149, Laws of 1984 and RCW 11.94.020 are each reenacted and amended to read as follows:

(1) The death, disability, or incompetence of any principal who has executed a power of attorney in writing other than a power as described by RCW 11.94.010, does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's heirs, devisees, and personal representatives.

(2) An affidavit, executed by the attorney in fact, or agent, stating that the attorney did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is, in the absence of a showing of fraud or bad faith, conclusive proof of the nonrevocation or

nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.

~~((4) Any person may place reasonable reliance on any determination of disability or incompetence as provided in the instrument which specifies the time and the circumstances under which the power of attorney document becomes effective:))~~

Sec. 27. Section 28, chapter 149, Laws of 1984 and RCW 11.94.030 are each reenacted and amended to read as follows:

If a principal, pursuant to RCW 11.94.010 or 11.94.020, has given a designated attorney in fact or agent all the principal's powers of absolute ownership or has used language to indicate that the attorney in fact or agent has all the powers the principal would have if alive and competent, then that language, notwithstanding chapter 30.22 RCW, includes the authority (1) to deposit and to make payments from any account in a financial institution, as defined in RCW 30.22.040, in the name of the principal, and (2) to enter any safe deposit box to which the principal has a right of access, subject to any contrary provision in any agreement governing the safe deposit box.

Sec. 28. Section 29, chapter 149, Laws of 1984 and RCW 11.94.040 are each reenacted and amended to read as follows:

Any person acting without negligence and in good faith in reasonable reliance on a power of attorney shall not incur any liability thereby. Unless the document contains a time limit, the length of time which has elapsed from its date of execution shall not prevent a party from reasonably relying on the document. Unless the document contains a requirement that it be filed for record to be effective, a person ~~((may))~~ shall place reasonable reliance on it regardless of whether it is so filed.

Sec. 29. Section 30, chapter 149, Laws of 1984 and RCW 11.94.050 are each reenacted and amended to read as follows:

(1) ~~((Except as provided in subsection (2) of this section, even though))~~ Although a designated attorney in fact or agent has all powers of absolute ownership of the principal, or the document has language to indicate that the attorney in fact or agent shall have all the powers the principal would have if alive and competent, the attorney in fact or agent shall not have the power, unless specifically provided otherwise in the document: To make, amend, alter, or revoke any of the principal's wills, codicils, life insurance beneficiary designations, employee benefit plan beneficiary designations, trust agreements, community property agreements; to make any gifts of property owned by the principal; to make transfers of property to any trust (whether or not created by the principal) unless the trust benefits the

principal alone and does not have dispositive provisions which are different from those which would have governed the property had it not been transferred into the trust, or to disclaim property.

(2) Nothing in subsection (1) of this section prohibits (~~a spouse of a principal from acting as~~) an attorney in fact or (~~as an~~) agent (~~to make~~) from making any transfer of resources not prohibited under RCW 74.09-.532 when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.

Sec. 30. Section 31, chapter 149, Laws of 1984 and RCW 11.94.060 are each reenacted and amended to read as follows:

If a principal, pursuant to RCW 11.94.010 or 11.94.020, has given a designated attorney in fact or agent all the principal's powers of absolute ownership or has used language to indicate that the attorney in fact or agent has all the powers the principal would have if alive and competent, then these powers include the right to convey or encumber the principal's homestead.

Sec. 31. Section 1, chapter 160, Laws of 1955 as amended by section 33, chapter 149, Laws of 1984 and RCW 11.95.010 are each reenacted to read as follows:

Any power exercisable by deed, will, or otherwise, other than a power in trust which is imperative, is releasable, either with or without consideration, by written instrument signed by the holder and delivered as hereinafter provided.

Sec. 32. Section 2, chapter 160, Laws of 1955 as amended by section 34, chapter 149, Laws of 1984 and RCW 11.95.020 are each reenacted to read as follows:

A power which is releasable may be released with respect to the whole or any part of the property subject to the power and may also be released in such manner as to reduce or limit the persons or objects, or classes of persons or objects, in whose favor the powers would otherwise be exercisable. A release of a power shall not be deemed to make imperative a power which was not imperative prior to the release, unless the instrument of release expressly so provides.

Sec. 33. Section 3, chapter 160, Laws of 1955 as amended by section 35, chapter 149, Laws of 1984 and RCW 11.95.030 are each reenacted to read as follows:

In order to be effective as a release of a power, the instrument of release must be delivered to any trustee or co-trustee of the property, and the person holding the property, to which the power relates. Delivery of a copy of the instrument of release may be made to the secretary of state, which shall from the time of delivery constitute notice of the release to all other persons.

Sec. 34. Section 4, chapter 160, Laws of 1955 as amended by section 36, chapter 149, Laws of 1984 and RCW 11.95.040 are each reenacted to read as follows:

The enactment of RCW 11.95.010 through 11.95.050 shall not be construed to impair the validity of any release heretofore made which was otherwise valid when executed.

Sec. 35. Section 5, chapter 160, Laws of 1955 and RCW 11.95.050 are each reenacted to read as follows:

It shall be the duty of the secretary of state to mark each instrument of release filed in his office with a consecutive file number and with the date and hour of filing, and to note and index the filing in a suitable alphabetical index according to the name or names of the person or persons signing the same and containing a notation of the address or addresses of the signer or signers, if given in the instrument. The fee for filing is one dollar. The secretary of state shall deliver or mail to the person filing the instrument a receipt showing the filing number and date and hour of filing.

Sec. 36. Section 38, chapter 149, Laws of 1984 and RCW 11.95.060 are each reenacted and amended to read as follows:

(1) The holder of a testamentary or lifetime power of appointment may exercise the power by appointing property outright or in trust and may grant further powers to appoint. The powerholder may designate the trustee, powers, situs, and governing law for property appointed in trust.

(2) The holder of a testamentary power may exercise the power only by the powerholder's last will, signed before or after the effective date of the instrument granting the power, that manifests an intent to exercise the power and that identifies the instrument granting the power and its date. Unless the person holding the property subject to the power has within six months after the holder's death received written notice that the powerholder's last will has been admitted to probate or an adjudication of testacy has been entered with respect to the powerholder's last will in some jurisdiction, the person may, until the time the notice is received, transfer the property subject to appointment on the basis that the power has not been effectively exercised. The person holding the property shall not incur liability to anyone for transfers so made. A testamentary residuary clause is not deemed the exercise of a testamentary power.

(3) The holder of a lifetime power of appointment shall exercise that power only by delivering a written instrument, signed by the holder, to the person holding the property subject to the power. If the holder conditions the distribution of the appointed property on a future event, the written instrument may be ~~((made revocable until the event specified has occurred and shall specify the method of its revocation))~~ revoked in the same manner at any time before the property becomes distributable upon occurrence of the event specified, except that any contrary provisions in the written instrument exercising the power, including provisions stating the exercise of

the power is irrevocable, shall be controlling. If the written instrument is revoked, the holder of the power may reappoint the property that was appointed in the instrument. In the absence of signing and delivery of such a written instrument, a lifetime power is not deemed exercised.

Sec. 37. Section 39, chapter 149, Laws of 1984 and RCW 11.95.070 are each reenacted and amended to read as follows:

(1) This chapter does not apply to any power as trustee described in and subject to RCW 11.98.019.

(2) Sections 33 through 36, 38, and 39, chapter 149, Laws of 1984 and the 1984 recodification of RCW 64.24.050 as RCW 11.95.050 apply as of January 1, 1985, to all existing or subsequently created powers of appointment, but not to any power of appointment that expressly or by necessary implication make those 1984 changes inapplicable.

Sec. 38. Section 2, chapter 124, Laws of 1959 as amended by section 64, chapter 149, Laws of 1984 and RCW 11.97.010 are each reenacted to read as follows:

The trustor of a trust may by the provisions of the trust relieve the trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed by chapters 11.95, 11.98, 11.100, and 11.104 RCW and RCW 11.106.020, or may alter or deny any or all of the privileges and powers conferred by those provisions; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by those provisions. If any specific provision of those chapters is in conflict with the provisions of a trust, the provisions of the trust control whether or not specific reference is made in the trust to any of those chapters. In no event may a trustee be relieved of the duty to act in good faith and with honest judgment.

Sec. 39. Section 65, chapter 149, Laws of 1984 and RCW 11.97.900 are each reenacted to read as follows:

This chapter applies to the provisions of chapters 11.95, 11.98, 11.100, and 11.104 RCW and to RCW 11.106.020.

Sec. 40. Section 1, chapter 124, Laws of 1959 as last amended by section 67, chapter 149, Laws of 1984 and RCW 11.98.009 are each reenacted to read as follows:

Except as provided in this section, this chapter applies to express trusts executed by the trustor after June 10, 1959, and does not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, trusts created by the judgment or decree of a court not sitting in probate, liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, trusts created in deposits in any financial institution pursuant to chapter 30.22 RCW, unless any such trust which is created in writing incorporates this chapter in whole or in part.

Sec. 41. Section 3, chapter 124, Laws of 1959 as amended by section 68, chapter 149, Laws of 1984 and RCW 11.98.016 are each reenacted to read as follows:

(1) Any power vested in three or more trustees jointly may be exercised by a majority of such trustees; but no trustee who has not joined in exercising a power is liable to the beneficiaries or to others for the consequences of such exercise; nor is a dissenting trustee liable for the consequences of an act in which that trustee joins at the direction of the majority of the trustees, if that trustee expressed his or her dissent in writing to each of the co-trustees at or before the time of such joinder.

(2) Where two or more trustees are appointed to execute a trust and one or more of them for any reason does not accept the appointment or having accepted ceases to be a trustee, the survivor or survivors shall execute the trust and shall succeed to all the powers, duties and discretionary authority given to the trustees jointly.

(3) An individual trustee, with a co-trustee's consent, may, by a signed, written instrument, delegate any power, duty, or authority as trustee to that co-trustee. This delegation is effective upon delivery of the instrument to that co-trustee and may be revoked at any time by delivery of a similar signed, written instrument to that co-trustee. However, if a power, duty, or authority is expressly conferred upon only one trustee, it shall not be delegated to a co-trustee. If that power, duty, or authority is expressly excluded from exercise by a trustee, it shall not be delegated to the excluded trustee.

(4) If one trustee gives written notice to all other co-trustees of an action that the trustee proposes be taken, then the failure of any co-trustee to deliver a written objection to the proposal to the trustee, at the trustee's then address of record and within fifteen days from the date the co-trustee actually receives the notice, constitutes formal approval by the co-trustee, unless the co-trustee had previously given written notice that was unrevoked at the time of the trustee's notice, to that trustee that this fifteen-day notice provision is inoperative.

(5) As to any effective delegation made under subsection (3) of this section, a co-trustee has no liability for failure to participate in the administration of the trust.

Nothing in this section, however, otherwise excuses a co-trustee from liability for failure to participate in the administration of the trust and nothing in this section, including subsection (3) of this section, excuses a co-trustee from liability for the failure to attempt to prevent a breach of trust.

Sec. 42. Section 69, chapter 149, Laws of 1984 and RCW 11.98.019 are each reenacted and amended to read as follows:

Any (~~(individual co-trustee)~~) trustee may, by written instrument delivered to ~~((a))~~ any then acting co-trustee and to the current adult income beneficiaries of the trust, relinquish to any extent and upon any terms any or all of the trustee's powers, rights, authorities, or discretions that are or may be tax sensitive in that they cause or may cause adverse tax consequences to the trustee or the trust. Any trustee not relinquishing such a power, right, authority, or discretion and upon whom it is conferred continues to have full power to exercise it.

Sec. 43. Section 4, chapter 124, Laws of 1959 and RCW 11.98.029 are each reenacted and amended to read as follows:

~~((Upon petition of the trustee of a trust, the superior court having jurisdiction may accept his resignation and discharge him from the trust upon such notice, if any, and upon such terms as such court may require.))~~ Any trustee may resign, without judicial proceedings, by a writing signed by the trustee and filed with the trust records, to be effective upon the trustee's discharge as provided in section 141 of this 1985 act.

Sec. 44. Section 5, chapter 124, Laws of 1959 as amended by section 72, chapter 149, Laws of 1984 and RCW 11.98.039 are each reenacted and amended to read as follows:

(1) Where a vacancy occurs in the office of the trustee and there is a successor trustee who is willing to serve as trustee and (a) is named in the governing instrument as successor trustee or (b) has been selected to serve as successor trustee under the procedure established in the governing instrument for the selection of a successor trustee, the outgoing trustee, or any other interested party, shall give notice of such vacancy, whether arising because of the trustee's resignation or because of any other reason, and of the successor trustee's agreement to serve as trustee, to all adult income beneficiaries of the trust and to all known and identifiable adults for whom the income of the trust is being accumulated. If there are no such adults, no notice need be given. The successor trustee named in the governing instrument or selected pursuant to the procedure therefor established in the governing instrument shall be entitled to act as trustee except for good cause or disqualification. The successor trustee shall serve as of the effective date of the discharge of the predecessor trustee as provided in RCW 11.98.040.

(2) Where a vacancy exists or occurs in the office of the trustee and there is no successor trustee who is named in the governing instrument or who has been selected to serve as successor trustee under the procedure established in the governing instrument for the selection of a successor trustee, and who is willing to serve as trustee, the beneficiaries and the then-acting trustee, if any, of a trust may agree for the nonjudicial change of the trustee under RCW 11.96.170 ((if the governing instrument does not name a successor trustee who is willing to serve)). The trustee, or any beneficiary if there is no then-acting trustee, shall give written notice of the proposed change in trustee to every beneficiary or special representative, and to the

trustor if alive. The notice shall: (a) State the name and mailing address of the trustee or the beneficiary giving the notice; (b) include a copy of the governing instrument; ~~((and))~~ (c) state the name and mailing address of the successor trustee; and (d) include a copy of the proposed successor trustee's agreement to serve as trustee. The notice shall advise the recipient of the right to petition for ~~((the))~~ a judicial ~~((determination of the proposed))~~ appointment or change in trustee as provided in subsection ~~((2))~~ (3) of this section. The notice shall include a form on which consent or objection to the proposed change in trustee may be indicated. The successor trustee shall serve as of the effective date of the discharge of the predecessor trustee as provided in section 141 of this 1985 act or, in circumstances where there is no predecessor trustee, as of the effective date of the trustee's appointment.

~~((2))~~ (3) Any beneficiary of a trust, the trustor if alive, or the trustee may petition the superior court having jurisdiction for the appointment or change of a trustee under the procedures provided in chapter 11.96 RCW (a) whenever the office of trustee becomes vacant, (b) upon filing of a petition of resignation by a trustee, ~~((or))~~ (c) upon the giving of notice of the change in trustee as referred to in subsection (1) or (2) of this section, or (d) for any other reasonable cause.

~~((3))~~ (4) For purposes of this subsection, the term fiduciary includes both trustee and personal representative.

(a) Except as otherwise provided in the governing instrument, a successor fiduciary, absent actual knowledge of a breach of fiduciary duty: (i) Is not liable for any act or omission of a predecessor fiduciary and is not obligated to inquire into the validity or propriety of any such act or omission; (ii) is authorized to accept as conclusively accurate any accounting or statement of assets tendered to the successor fiduciary by a predecessor fiduciary; and (iii) is authorized to receipt only for assets actually delivered and has no duty to make further inquiry as to undisclosed assets of the trust or estate.

(b) Nothing in this section relieves a successor fiduciary from liability for retaining improper investments, nor does this section in any way bar the successor fiduciary, trust beneficiaries, or other party in interest from bringing an action against a predecessor fiduciary arising out of the acts or omissions of the predecessor fiduciary, nor does it relieve the successor fiduciary of liability for its own acts or omissions except as specifically stated or authorized in this section.

Sec. 45. Section 74, chapter 149, Laws of 1984 and RCW 11.98.045 are each reenacted to read as follows:

(1) A trustee may transfer trust assets to a trustee in another jurisdiction or may transfer the place of administration of a trust to another jurisdiction if the trust instrument so provides or in accordance with RCW 11.98.051 or 11.98.055.

(2) Transfer under this section is permitted only if:

(a) The transfer would facilitate the economic and convenient administration of the trust;

(b) The transfer would not materially impair the interests of the beneficiaries or others interested in the trust;

(c) The transfer does not violate the terms of the trust; and

(d) The new trustee is qualified and able to administer the trust or such assets on the terms set forth in the trust.

(3) Acceptance of such transfer by a foreign corporate trustee or trust company under this section, RCW 11.98.051, or 11.98.055 shall not be construed to be doing a "trust business" as described in RCW 30.08.150(9).

Sec. 46. Section 75, chapter 149, Laws of 1984 and RCW 11.98.051 are each reenacted to read as follows:

(1) The trustee may transfer trust assets or the place of administration in accordance with RCW 11.96.170. In addition, the trustee shall give written notice to those persons entitled to notice as provided for under RCW 11.96.100 and 11.96.110 and to the attorney general in the case of a charitable trust subject to chapter 11.110 RCW. The notice shall:

(a) State the name and mailing address of the trustee;

(b) Include a copy of the governing instrument of the trust;

(c) Include a statement of assets and liabilities of the trust dated within ninety days of the notice;

(d) State the name and mailing address of the trustee to whom the assets or administration will be transferred together with evidence that the trustee has agreed to accept the assets or trust administration in the manner provided by law of the new place of administration. The notice shall also contain a statement of the trustee's qualifications and the name of the court, if any, having jurisdiction of that trustee or in which a proceeding with respect to the administration of the trust may be heard;

(e) State the facts supporting the requirements of RCW 11.98.045(2);

(f) Advise the beneficiaries of the right to petition for judicial determination of the proposed transfer as provided in RCW 11.98.055; and

(g) Include a form on which the recipient may indicate consent or objection to the proposed transfer.

(2) If the trustee receives written consent to the proposed transfer from all persons entitled to notice, the trustee may transfer the trust assets or place of administration as provided in the notice. Transfer in accordance with the notice is a full discharge of the trustee's duties in relation to all property referred to therein. Any person dealing with the trustee is entitled to rely on the authority of the trustee to act and is not obliged to inquire into the validity or propriety of the transfer.

Sec. 47. Section 76, chapter 149, Laws of 1984 and RCW 11.98.055 are each reenacted to read as follows:

(1) Any trustee, beneficiary, or beneficiary representative may petition the superior court of the county of the situs of the trust for a transfer of

trust assets or transfer of the place of administration in accordance with chapter 11.96 RCW.

(2) At the conclusion of the hearing, if the court finds the requirements of RCW 11.98.045(2) have been satisfied, it may direct the transfer of trust assets or the place of trust administration on such terms and conditions as it deems appropriate. The court in its discretion may provide for payment from the trust of reasonable fees and expenses for any party to the proceeding. Delivery of trust assets in accordance with the court's order is a full discharge of the trustee's duties in relation to all transferred property.

Sec. 48. Section 6, chapter 124, Laws of 1959 and RCW 11.98.060 are each reenacted to read as follows:

A successor trustee of a trust shall succeed to all the powers, duties and discretionary authority of the original trustee.

Sec. 49. Section 78, chapter 149, Laws of 1984 and RCW 11.98.065 are each reenacted to read as follows:

Any appointment of a specific bank, trust company, or corporation as trustee is conclusively presumed to authorize the appointment or continued service of that entity's successor in interest in the event of a merger, acquisition, or reorganization, and no court proceeding is necessary to affirm the appointment or continuance of service.

Sec. 50. Section 7, chapter 124, Laws of 1959 as amended by section 80, chapter 149, Laws of 1984 and RCW 11.98.070 are each reenacted and amended to read as follows:

A trustee, or the trustees jointly, of a trust, in addition to the authority otherwise given by law, have discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund of the trust to be held and administered under the provisions of the trust;

(2) Sell on credit;

(3) Grant, purchase or exercise options;

(4) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights;

(5) Deposit stock or other corporate securities with any protective or other similar committee;

(6) Assent to corporate sales, leases, and encumbrances;

(7) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(8) Register and hold any stocks, securities, or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees are liable for any loss occasioned by the acts

of any nominee, except that this subsection shall not apply to situations covered by RCW 11.98.070(31);

(9) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements;

(10) Subdivide, develop, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property, and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(11) Compromise or submit claims to arbitration;

(12) Borrow money, secured or unsecured, from any source, including a corporate trustee's banking department, or from the individual trustee's own funds;

(13) Make loans, either secured or unsecured, at such interest as the trustee may determine to any person, including any beneficiary of a trust, except that no trustee who is a beneficiary of a trust may participate in decisions regarding loans to such beneficiary from the trust, and also except that if a beneficiary or the grantor of a trust has the power to change a trustee of the trust, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;

(14) Determine the hazards to be insured against and maintain insurance for them;

(15) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; make nonpro rata distributions of property in kind; allocate particular assets or portions of them or undivided interests in them to any one or more of the beneficiaries without regard to the income tax basis of specific property allocated to any beneficiary and without any obligation to make an equitable adjustment;

(16) Pay any income or principal distributable to or for the use of any beneficiary, whether that beneficiary is under legal disability, to the beneficiary or for the beneficiary's use to the beneficiary's parent, guardian, custodian under the uniform gifts to minors act of any state, person with whom he resides, or third person;

(17) Change the character of or abandon a trust asset or any interest in it;

(18) Mortgage, pledge the assets or the credit of the trust estate, or otherwise encumber trust property, including future income, whether an initial encumbrance or a renewal or extension of it, for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(19) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing structures, and make any improvements to trust property;

(20) Create restrictions, easements, including easements to public use without consideration, and other servitudes;

(21) Manage any business interest, including any farm or ranch interest, regardless of form, received by the trustee from the trustor of the trust, as a result of the death of a person, or by gratuitous transfer from any other transferor, and with respect to the business interest, have the following powers:

(a) To hold, retain, and continue to operate that business interest solely at the risk of the trust, without need to diversify and without liability on the part of the trustee for any resulting losses;

(b) To enlarge or diminish the scope or nature or the activities of any business;

(c) To authorize the participation and contribution by the business to any employee benefit plan, whether or not qualified as being tax deductible, as may be desirable from time to time;

(d) To use the general assets of the trust for the purpose of the business and to invest additional capital in or make loans to such business;

(e) To endorse or guarantee on behalf of the trust any loan made to the business and to secure the loan by the trust's interest in the business or any other property of the trust;

(f) To leave to the discretion of the trustee the manner and degree of the trustee's active participation in the management of the business, and the trustee is authorized to delegate all or any part of the trustee's power to supervise, manage, or operate to such persons as the trustee may select, including any partner, associate, director, officer, or employee of the business; and also including electing or employing directors, officers, or employees of the trustee to take part in the management of the business as directors or officers or otherwise, and to pay that person reasonable compensation for services without regard to the fees payable to the trustee;

(g) To engage, compensate, and discharge or to vote for the engaging, compensating, and discharging of managers, employees, agents, lawyers, accountants, consultants, or other representatives, including anyone who may be a beneficiary of the trust or any trustee;

(h) To cause or agree that surplus be accumulated or that dividends be paid;

(i) To accept as correct financial or other statements rendered by any accountant for any sole proprietorship or by any partnership or corporation as to matters pertaining to the business except upon actual notice to the contrary;

(j) To treat the business as an entity separate from the trust, and in any accounting by the trustee it is sufficient if the trustee reports the earning and condition of the business in a manner conforming to standard business accounting practice;

(k) To exercise with respect to the retention, continuance, or disposition of any such business all the rights and powers that the trustor of the trust would have if alive at the time of the exercise, including all powers as are conferred on the trustee by law or as are necessary to enable the trustee to administer the trust in accordance with the instrument governing the trust, subject to any limitations provided for in the instrument; and

(l) To satisfy contractual and tort liabilities arising out of an unincorporated business, including any partnership, first out of the business and second out of the estate or trust, but in no event may there be a liability of the trustee, except as provided in RCW 11.98.110 (2) and (4), and if the trustee is liable, the trustee is entitled to indemnification from the business and the trust, respectively;

(22) Participate in the establishment of, and thereafter in the operation of, any business or other enterprise according to subsection (21) of this section except that the trustee shall not be relieved of the duty to diversify;

(23) Cause or participate in, directly or indirectly, the formation, reorganization, merger, consolidation, dissolution, or other change in the form of any corporate or other business undertaking where trust property may be affected and retain any property received pursuant to the change;

(24) Limit participation in the management of any partnership and act as a limited or general partner;

(25) Charge profits and losses of any business (~~or farm~~) operation, including farm or ranch operation, to the trust estate as a whole and not to the trustee; make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(26) Pay reasonable compensation to the trustee or co-trustees considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the trustee;

(27) Employ persons, including lawyers, accountants, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's duties or to perform any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except a trustee may not delegate all of the trustee's duties and responsibilities, and except that this employment does not relieve the trustee of liability for the discretionary acts of a person, which if done by the trustee, would result in liability to the trustee, or of the duty to select and retain a person with reasonable care;

(28) Appoint an ancillary trustee or agent to facilitate management of assets located in another state or foreign country;

(29) Retain and store such items of tangible personal property as the trustee selects and pay reasonable storage charges thereon from the trust estate;

(30) Issue proxies to any adult beneficiary of a trust for the purpose of voting stock of a corporation acting as the trustee of the trust;

(31) Place all or any part of the securities at any time held by the trustee in the care and custody of any bank, trust company, or member firm of the New York Stock Exchange with no obligation while the securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank, trust company, or firm, so long as the bank, trust company, or firm was selected and retained with reasonable care, and have all stocks and registered securities placed in the name of the bank, trust company, or firm, or in the name of its nominee, and to appoint such bank, trust company, or firm agent as attorney to collect, receive, receipt for, and disburse any income, and generally may perform, but is under no requirement to perform, the duties and services incident to a so-called "custodian" account;

(32) Determine at any time that the corpus of any trust is insufficient to implement the intent of the trust, and upon this determination by the trustee, terminate the trust by distribution of the trust to the current income beneficiary or beneficiaries of the trust or their legal representatives, except that this determination may only be made by the trustee if the trustee is neither the grantor nor the beneficiary of the trust, and if the trust has no charitable beneficiary;

(33) Rely with acquittance on advice of counsel on questions of law; and

(34) Continue to be a party to any existing voting trust agreement or enter into any new voting trust agreement or renew an existing voting trust agreement with respect to any assets contained in trust.

Sec. 51. Section 81, chapter 149, Laws of 1984 and RCW 11.98.080 are each reenacted and amended to read as follows:

(1) Two or more trusts may be consolidated if:

(a) The trusts so provide; or

(b) Whether provided in the trusts or not, in accordance with subsection (2) of this section, if all interested persons consent as provided in subsection (2)(~~(c)~~)(b) of this section and the requirements of subsection (1)(d) of this section are satisfied; or

(c) Whether provided in the trusts or not, in accordance with subsection (3) of this section if the requirements of subsection (1)(d) of this section are satisfied;

(d) Consolidation under subsection (2) or (3) of this section is permitted only if:

(i) The dispositive provisions of each trust to be consolidated are substantially similar;

(ii) Consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated; and

(iii) Consolidation would facilitate administration of the trusts and would not materially impair the interests of the beneficiaries;

(e) Trusts may be consolidated whether created inter vivos or by will, by the same or different instruments, by the same or different trustors, whether the trustees are the same, and regardless of where the trusts were created or administered.

(2) The trustees of two or more trusts may consolidate the trusts on such terms and conditions as appropriate without court approval as provided in RCW 11.96.170.

(a) The trustee shall give written notice of proposed consolidation by personal service or by certified mail to the beneficiaries of every trust affected by the consolidation as provided in RCW 11.96.100 and 11.96.110 and to any trustee of such trusts who does not join in the notice. The notice shall: (i) State the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be consolidated; (iii) include a statement of assets and liabilities of each trust to be consolidated, dated within ninety days of the notice; (iv) fully describe the terms and manner of consolidation; and (v) state the reasons supporting the requirements of subsection (1)(d) of this section. The notice shall advise the recipient of the right to petition for a judicial determination of the proposed consolidation as provided in subsection (3) of this section. The notice shall include a form on which consent or objection to the proposed consolidation may be indicated.

(b) If the trustee receives written consent to the proposed consolidation from all persons entitled to notice as provided in RCW 11.96.100 and 11.96.110, the trustee may consolidate the trusts as provided in the notice. Any person dealing with the trustee of the resulting consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the consolidation under this section.

(3)(a) Any trustee, beneficiary, or special representative may petition the superior court of the county in which the principal place of administration of a trust is located for an order consolidating two or more trusts under chapter 11.96 RCW. If nonjudicial consolidation has been commenced pursuant to subsection (2) of this section, a petition may be filed under this section unless the trustee has received all necessary consents. The principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(b) At the conclusion of the hearing, if the court finds that the requirements of subsection (1)(d) of this section have been satisfied, it may direct consolidation of two or more trusts on such terms and conditions as appropriate. The court in its discretion may provide for payment from one

or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(4) This section applies to all trusts whenever created.

Sec. 52. Section 8, chapter 124, Laws of 1959 as amended by section 83, chapter 149, Laws of 1984 and RCW 11.98.090 are each reenacted to read as follows:

In the absence of knowledge of a breach of trust, no party dealing with a trustee is required to see to the application of any moneys or other properties delivered to the trustee.

Sec. 53. Section 9, chapter 124, Laws of 1959 as amended by section 84, chapter 149, Laws of 1984 and RCW 11.98.100 are each reenacted to read as follows:

When the happening of any event, including but not limited to such events as marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of the trust, then a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for any action or inaction based on lack of knowledge of the event. A corporate trustee is not liable prior to receiving such knowledge or notice in its trust department office where the trust is being administered.

Sec. 54. Section 10, chapter 124, Laws of 1959 as last amended by section 85, chapter 149, Laws of 1984 and RCW 11.98.110 are each reenacted and amended to read as follows:

As used in this section, a trust includes a probate estate, and a trustee includes a personal representative. The words "trustee" and "as trustee" mean "personal representative" and "as personal representative" where this section is being construed in regard to personal representatives.

Actions on contracts which have been transferred to a trust and on contracts made by a trustee, and actions in tort for personal liability incurred by a trustee in the course of administration may be maintained by the party in whose favor the cause of action has accrued as follows:

(1) The plaintiff may sue the trustee in the trustee's representative capacity and any judgment rendered in favor of the plaintiff is collectible by execution out of the trust property: PROVIDED, HOWEVER, If the action is in tort, collection shall not be had from the trust property unless the court determines in the action that (a) the tort was a common incident of the kind of business activity in which the trustee or the trustee's predecessor was properly engaged for the trust; or (b) that, although the tort was not a common incident of such activity, neither the trustee nor the trustee's predecessor, nor any officer or employee of the trustee or the trustee's predecessor, was guilty of personal fault in incurring the liability; or (c) that, although the tort did not fall within classes (a) or (b) above, it increased the value of the trust property. If the tort is within classes (a) or (b) above, collection may be had of the full amount of damage proved, and if the tort

is within class (c) above, collection may be had only to the extent of the increase in the value of the trust property.

(2) If the action is on a contract made by the trustee, the trustee may be held personally liable on the contract, if personal liability is not excluded. Either the addition by the trustee of the words "trustee" or "as trustee" after the signature of a trustee to a contract or the transaction of business as trustee under an assumed name in compliance with chapter 19.80 RCW excludes the trustee from personal liability. If the action is on a contract transferred to the trust or trustee, subject to any rights therein vested at time of the transfer, the trustee is personally liable only if he or she has in writing assumed that liability.

(3) In any such action against the trustee in the trustee's representative capacity the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if the trustee had paid the plaintiff's claim.

(4) The trustee may also be held personally liable for any tort committed by him or her, or by his or her agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement:

(a) A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if (i) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust, or (ii) although the tort was not a common incident of such activity, if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability;

(b) A trustee who commits a tort which increases the value of the trust property is entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though the trustee would not otherwise be entitled to exoneration or reimbursement.

(5) The procedure for all actions provided in this section is as provided in chapter 11.96 RCW.

(6) Nothing in this section shall be construed to change the existing law with regard to the liability of the trustee of a charitable trust for the torts of the trustee.

Sec. 55. Section 11.98.010, chapter 145, Laws of 1965 as amended by section 87, chapter 149, Laws of 1984 and RCW 11.98.130 are each reenacted to read as follows:

If any provision of an instrument creating a trust, including the provisions of any further trust created, or any other disposition of property made pursuant to exercise of a power of appointment granted in or created through authority under such instrument violates the rule against perpetuities, neither such provision nor any other provisions of the trust, or such further trust or other disposition, is thereby rendered invalid during any of the following periods:

(1) The twenty-one years following the effective date of the instrument.

(2) The period measured by any life or lives in being or conceived at the effective date of the instrument if by the terms of the instrument the trust is to continue for such life or lives.

(3) The period measured by any portion of any life or lives in being or conceived at the effective date of the instrument if by the terms of the instrument the trust is to continue for such portion of such life or lives; and

(4) The twenty-one years following the expiration of the periods specified in (2) and (3) above.

Sec. 56. Section 11.98.020, chapter 145, Laws of 1965 as amended by section 88, chapter 149, Laws of 1984 and RCW 11.98.140 are each reenacted to read as follows:

If, during any period in which an instrument creating a trust, as described in RCW 11.98.130, or any provision thereof, is not to be rendered invalid by the rule against perpetuities, any of the trust assets should by the terms of the instrument or pursuant to any further trust or other disposition resulting from exercise of the power of appointment granted in or created through authority under such instrument, become distributable or any beneficial interest in any of the trust assets should by the terms of the instrument, or such further trust or other disposition become vested, such assets shall be distributed and such beneficial interest shall validly vest in accordance with the instrument, or such further trust or other disposition.

Sec. 57. Section 11.98.030, chapter 145, Laws of 1965 as amended by section 89, chapter 149, Laws of 1984 and RCW 11.98.150 are each reenacted to read as follows:

If, at the expiration of any period in which an instrument creating a trust, as described in RCW 11.98.009, or any provision thereof, is not to be rendered invalid by the rule against perpetuities, any of the trust assets have not by the terms of the trust instrument become distributable or vested, then the assets shall be distributed as the superior court having jurisdiction directs, giving effect to the general intent of the creator of the trust or person exercising a power of appointment in the case of any further trust or other disposition of property made pursuant to the exercise of a power of appointment.

Sec. 58. Section 11.98.040, chapter 145, Laws of 1965 as amended by section 90, chapter 149, Laws of 1984 and RCW 11.98.160 are each reenacted to read as follows:

For the purposes of this chapter the effective date of an instrument purporting to create an irrevocable inter vivos trust is the date on which it is executed by the trustor, and the effective date of an instrument purporting to create either a revocable inter vivos trust or a testamentary trust is the date of the trustor's or testator's death.

Sec. 59. Section 91, chapter 149, Laws of 1984 and RCW 11.98.170 are each reenacted to read as follows:

(1) Any life insurance policy or retirement plan payment provision may designate as beneficiary:

(a) A trustee named or to be named by will, and immediately after the proving of the will, the proceeds of such insurance or of such plan designated as payable to that trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of under the terms of the will governing the testamentary trust; or

(b) A trustee named or to be named under a trust agreement executed by the insured, the plan participant, or any other person, and the proceeds of such insurance or retirement plan designated as payable to such trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of by the trustee as provided in such trust agreement; a trust is valid even if the only corpus consists of the right of the trustee to receive as beneficiary insurance or retirement plan proceeds; any such trustee may also receive assets, other than insurance or retirement plan proceeds, by testamentary disposition or otherwise and, unless directed otherwise by the transferor of the assets, shall administer all property of the trust according to the terms of the trust agreement.

(2) If no qualified trustee makes claim to the insurance policy or retirement plan proceeds from the insurance company or the plan administrator within twelve months after the death of the insured or plan participant, determination of the proper recipient of the proceeds shall be made pursuant to the judicial or nonjudicial dispute resolution procedures of chapter 11.96 RCW, unless prior to the institution of the judicial procedures, a qualified trustee makes claim to the proceeds, except that (a) if satisfactory evidence is furnished the insurance company or plan administrator within the twelve-month period showing that no trustee can or will qualify to receive such proceeds, payment shall be made to those otherwise entitled to the proceeds under the terms of the policy or retirement plan, including the terms of the beneficiary designation except that (b) if there is any dispute as to the proper recipient of insurance policy or retirement plan proceeds, the dispute shall be resolved pursuant to the judicial or nonjudicial resolution procedures in chapter 11.96 RCW.

(3) The proceeds of the insurance or retirement plan as collected by the trustee are not subject to debts of the insured or the plan participant to any greater extent than if the proceeds were payable to any named beneficiary other than the personal representative or the estate of the insured or of the plan participant.

(4) For purposes of this section the following definitions apply:

(a) "Plan administrator" means the person upon whom claim must be made in order for retirement plan proceeds to be paid upon the death of the plan participant.

(b) "Retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for payment to a beneficiary designated by the plan participant for whom the plan is established. The term includes, without limitation, such plans regardless of source of funding, and, for example, includes pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other retirement plan or program.

(c) "Trustee" includes any custodian under chapter 11.93 RCW or any similar statutory provisions of any other state and the terms "trust agreement" and "will" refer to the provisions of chapter 11.93 RCW or such similar statutory provisions of any other state.

(5) Enactment of this section does not invalidate life insurance policy or retirement plan beneficiary designations executed prior to January 1, 1985, naming a trustee established by will or by trust agreement.

Sec. 60. Section 11.98.050, chapter 145, Laws of 1965 as last amended by section 93, chapter 149, Laws of 1984 and RCW 11.98.900 are each reenacted and amended to read as follows:

The provisions of (~~this chapter~~) RCW 11.98.130 through 11.98.160 are applicable to any instrument purporting to create a trust regardless of the date such instrument bears, unless it has been previously adjudicated in the courts of this state.

Sec. 61. Section 11, chapter 124, Laws of 1959 and RCW 11.98.910 are each reenacted to read as follows:

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Sec. 62. Section 12, chapter 124, Laws of 1959 and RCW 11.98.920 are each reenacted to read as follows:

This act shall be known as the "Washington Trust Act."

Sec. 63. Section 30.24.010, chapter 33, Laws of 1955 and RCW 11.100.010 are each reenacted to read as follows:

Any corporation, association, or person handling or investing trust funds as a fiduciary shall be governed in the handling and investment of such funds as in this chapter specified.

Sec. 64. Section 30.24.015, chapter 33, Laws of 1955 and RCW 11.100.015 are each reenacted to read as follows:

In addition to other fiduciaries, a guardian of any estate is a fiduciary within the meaning of this chapter; and in addition to other trusts, a guardianship of any estate is a trust within the meaning of this chapter; and in

addition to other trust funds, guardianship funds are trust funds within the meaning of this chapter.

Sec. 65. Section 30.24.020, chapter 33, Laws of 1955 as amended by section 97, chapter 149, Laws of 1984 and RCW 11.100.020 are each reenacted to read as follows:

(1) A fiduciary is authorized to acquire and retain every kind of property. In acquiring, investing, reinvesting, exchanging, selling and managing property for the benefit of another, a fiduciary, in determining the prudence of a particular investment, shall give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying such total asset management approach, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, and if the fiduciary has special skills or is named trustee on the basis of representations of special skills or expertise, the fiduciary is under a duty to use those skills.

(2) Except as may be provided to the contrary in the instrument, the following are among the factors that should be considered by a fiduciary in applying this total asset management approach:

- (a) The probable income as well as the probable safety of their capital;
- (b) Marketability of investments;
- (c) Length of the term of the investments;
- (d) Duration of the trust;
- (e) Liquidity needs;
- (f) Requirements of the beneficiary or beneficiaries;
- (g) Other assets of the beneficiary or beneficiaries, including earning capacity; and
- (h) Effect of investments in increasing or diminishing liability for taxes.

Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a fiduciary is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment specifically including but not by way of limitation, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion, and intelligence acquire for their own account.

Sec. 66. Section 98, chapter 149, Laws of 1984 and RCW 11.100.023 are each reenacted and amended to read as follows:

Subject to the standards of RCW 11.100.020, a fiduciary is authorized to invest in new, unproven, untried, or other enterprises with a potential for significant growth whether producing a current return, either by investing directly therein or by investing as a limited partner or otherwise in one or more commingled funds which in turn invest primarily in such enterprises.

The aggregate amount of investments (~~(made)~~) held by a fiduciary under the authority of this section valued at cost shall not exceed ten percent of the net fair market value of the trust corpus (~~(at the time)~~), including investments made under the authority of this section valued at fair market value, immediately after any such investment is made. Any investment which would have been authorized by this section if in force at the time the investment was made is hereby authorized.

Sec. 67. Section 99, chapter 149, Laws of 1984 and RCW 11.100.025 are each reenacted and amended to read as follows:

Notwithstanding RCW 11.98.070(21)(a), 11.100.060, or any other statutory provisions to the contrary, with respect to trusts which require by their own terms or by operation of law that all income be paid at least annually to the spouse of the trust's creator, which do not provide that on the termination of the income interest that the entire then remaining trust estate be paid to the estate of the spouse of the trust's creator, and for which a federal estate or gift tax marital deduction is (~~(taken)~~) claimed, any investment in or retention of unproductive property is subject to a power in the spouse of the trust's creator to require either that any such asset be made productive, or that it be converted to productive assets within a reasonable period of time unless the instrument creating the interest provides otherwise.

Sec. 68. Section 30.24.030, chapter 33, Laws of 1955 as last amended by section 101, chapter 149, Laws of 1984 and RCW 11.100.030 are each reenacted to read as follows:

A corporation doing a trust business may invest trust funds in savings accounts with itself to the extent that deposits are insured by an agency of the federal government. Additional trust funds may be so invested by the corporation only if it first sets aside under the control of its trust department as collateral security:

- (1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or
- (2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of the funds so deposited.

Sec. 69. Section 30.24.035, chapter 33, Laws of 1955 and RCW 11.100.035 are each reenacted to read as follows:

Within the standards of judgment and care established by law, and subject to any express provisions or limitations contained in any particular trust instrument, guardians, trustees and other fiduciaries, whether individual or corporate, are authorized to acquire and retain securities of any

open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940 as now or hereafter amended.

Sec. 70. Section 4, chapter 133, Laws of 1967 as amended by section 104, chapter 149, Laws of 1984 and RCW 11.100.037 are each reenacted to read as follows:

Funds held by a bank or trust company in a fiduciary capacity awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. These funds, including managing agency accounts, may, unless prohibited by the instrument creating the trust or by other statutes of this state, be deposited in the commercial or savings or other department of the bank or trust company, only if the bank or trust company first sets aside under control of the trust department as collateral security:

(1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of the funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by an agency of the federal government.

Sec. 71. Section 30.24.040, chapter 33, Laws of 1955 and RCW 11.100.040 are each reenacted to read as follows:

Nothing contained in this chapter shall be construed as restricting the power of a court of proper jurisdiction to permit a fiduciary to deviate from the terms of any will, agreement, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of fiduciary property.

Sec. 72. Section 30.24.050, chapter 33, Laws of 1955 as amended by section 107, chapter 149, Laws of 1984 and RCW 11.100.050 are each reenacted to read as follows:

The provisions of this chapter govern fiduciaries acting under wills, agreements, court orders, and other instruments effective before or after January 1, 1985.

Sec. 73. Section 108, chapter 149, Laws of 1984 and RCW 11.100.060 are each reenacted and amended to read as follows:

~~((Any fiduciary may hold during the life of the trust all securities or other property, real or personal, received into or acquired by the trust from any source, except such as are purchased by the fiduciary in administering the trust, unless there are express provisions to the contrary in the instrument))~~ Subject to express provisions to the contrary in the trust instrument, any fiduciary may hold and retain any real or personal property received

into or acquired by the trust from any source. Except as to trust property acquired for consideration, a fiduciary may hold and retain any such property without need for diversification as to kinds or amount and whether or not the property is income producing.

Any fiduciary may invest funds held in trust under an instrument creating the trust in any manner and in any investment or in any class of investments authorized by the instrument.

The investments described in this section are permissible even though the securities or other property are not permitted under other provisions of this chapter, and even though the securities may be securities issued by the corporation that is the fiduciary.

A fiduciary is not liable for any loss incurred with respect to any investment held under the authority of or pursuant to this section if that investment was permitted when received or when the investment was made by the fiduciary, and if the fiduciary exercises due care and prudence in the disposition or retention of any such investment.

Sec. 74. Section 30.24.070, chapter 33, Laws of 1955 as amended by section 110, chapter 149, Laws of 1984 and RCW 11.100.070 are each reenacted to read as follows:

The terms "legal investment" or "authorized investment" or words of similar import, as used in any such instrument, shall be taken to mean any investment which is permitted by the terms of RCW 11.100.020.

Sec. 75. Section 30.24.090, chapter 33, Laws of 1955 as amended by section 111, chapter 149, Laws of 1984 and RCW 11.100.090 are each reenacted to read as follows:

Unless the instrument creating the trust expressly provides to the contrary, any fiduciary in carrying out the obligations of the trust, may not buy or sell investments from or to himself, herself, or itself or any affiliated or subsidiary company or association. This section shall not be construed as prohibiting the trustee's powers under RCW 11.98.070(12).

Sec. 76. Section 1, chapter 89, Laws of 1973 1st ex. sess. as amended by section 112, chapter 149, Laws of 1984 and RCW 11.100.120 are each reenacted to read as follows:

Subject to the standards of RCW 11.100.020, a fiduciary is authorized to use trust funds to acquire life insurance upon the life of any beneficiary or upon the life of another in whose life such beneficiary has an insurable interest.

Sec. 77. Section 2, chapter 89, Laws of 1973 1st ex. sess. and RCW 11.100.130 are each reenacted to read as follows:

Whenever power or authority to direct or control the acts of a trustee or the investments of a trust is conferred directly or indirectly upon any person other than the designated trustee of the trust, such person shall be deemed to be a fiduciary and shall be liable to the beneficiaries of said trust

and to the designated trustee to the same extent as if he were a designated trustee in relation to the exercise or nonexercise of such power or authority.

Sec. 78. Section 114, chapter 149, Laws of 1984 and RCW 11.100.140 are each reenacted to read as follows:

(1) A trustee shall not enter into a significant nonroutine transaction in the absence of a compelling circumstance without:

(a) Providing the written notice called for by subsection (4) of this section; and

(b) If the significant nonroutine transaction is of the type described in subsection (2)(a) of this section, obtaining an independent appraisal, or selling in an open-market transaction.

(2) A "significant nonroutine transaction" for the purpose of this section is defined as any of the following:

(a) Any sale, option, lease, or other agreement, binding for a period of ten years or more, dealing with any interest in real estate other than real estate purchased by the trustee or a vendor's interest in a real estate contract, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(b) The sale of any item or items of tangible personal property, including a sale of precious metals or investment gems other than precious metals or investment gems purchased by the trustee, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(c) The sale of shares of stock in a corporation whose stock is not traded on the open market, if the stock in question constitutes more than twenty-five percent of the corporation's outstanding shares; or

(d) The sale of shares of stock in any corporation where the stock to be sold constitutes a controlling interest, or would cause the trust to no longer own a controlling interest, in the corporation.

(3) A "compelling circumstance" for the purpose of this section is defined as a condition, fact, or event that the trustee believes necessitates action without compliance with this section in order to avoid immediate and significant detriment to the trust. If faced with a compelling circumstance, the trustee shall give the notice called for in subsection (4) of this section and may thereafter enter into the significant nonroutine transaction without waiting for the expiration of the twenty-day period.

(4) The written notice required by this section shall set forth such material facts as necessary to advise properly the recipient of the notice of the nature and terms of the intended transaction. This notice shall be given to the trustor, if living, to each person who is eighteen years or older and to whom income is presently payable or for whom income is presently being accumulated for distribution as income and for whom an address is known to the trustee, and to the attorney general if the trust is a charitable trust

under RCW 11.110.020. The notice shall be mailed by United States certified mail, postage prepaid, return receipt requested, to the recipient's last-known address, or may be personally served, at least twenty days prior to the trustee entering into any binding agreements.

(5) The trustor, if living, or persons entitled to notice under this section may, by written instrument, waive any requirement imposed by this section.

(6) Except as required by this section for nonroutine transactions defined in subsection (2) of this section, a trustee shall not be required to notify beneficiaries of a trust of the trustee's intended action, to obtain an independent appraisal, or to sell in an open-market transaction.

(7) Any person dealing with a trustee may rely upon the trustee's written statement that the requirements of this section have been met for a particular transaction. If a trustee gives such a statement, the transaction shall be final unless the party relying on the statement has actual knowledge that the requirements of this section have not been met.

(8) The requirements of this section, and any similar requirements imposed by prior case law, shall not apply to personal representatives or to those trusts excluded from the definition of express trusts under RCW 11.98.009.

Sec. 79. Section 30.28.010, chapter 33, Laws of 1955 as amended by section 1, chapter 105, Laws of 1979 and RCW 11.102.010 are each reenacted to read as follows:

Any bank or trust company qualified to act as fiduciary in this state, or in any other state if affiliated with a bank or trust company qualified to act as fiduciary in this state, may establish common trust funds for the purpose of furnishing investments to itself and its affiliated or related bank or trust company as fiduciary, or to itself and its affiliated or related bank or trust company, and others, as cofiduciaries; and may, as such fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship, and if, in the case of cofiduciaries, the bank or trust company procures the consent of its cofiduciary or cofiduciaries to such investment: PROVIDED, That any bank or trust company qualified to act as fiduciary in the state of its charter, which is not a member of the federal reserve system, shall, in the operation of such common trust fund, comply with the rules and regulations as made from time to time by the supervisor of banking in the state where chartered and in Washington the supervisor is hereby authorized and empowered to make such rules and regulations as he may deem necessary and proper in the premises.

"Affiliated" as used in this section means two or more banks or trust companies:

(1) In which twenty-five percent or more of their voting shares, excluding shares owned by the United States or by any company wholly

owned by the United States, are directly or indirectly owned or controlled by a holding company; or

(2) In which the election of a majority of the directors is controlled in any manner by a holding company.

Sec. 80. Section 30.28.020, chapter 33, Laws of 1955 and RCW 11.102.020 are each reenacted to read as follows:

Unless ordered by a court of competent jurisdiction the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it may, by application to the superior court, secure approval of such an accounting on such conditions as the court may establish.

Sec. 81. Section 30.28.030, chapter 33, Laws of 1955 and RCW 11.102.030 are each reenacted to read as follows:

This chapter shall apply to fiduciary relationships in existence on June 11, 1943, or thereafter established.

Sec. 82. Section 30.28.040, chapter 33, Laws of 1955 and RCW 11.102.040 are each reenacted to read as follows:

This chapter shall be so interpreted and construed to effectuate its general purpose to make uniform the laws of those states which enact it.

Sec. 83. Section 30.28.050, chapter 33, Laws of 1955 and RCW 11.102.050 are each reenacted to read as follows:

This chapter may be cited as the uniform common trust fund act.

Sec. 84. Section 1, chapter 74, Laws of 1971 as amended by section 116, chapter 149, Laws of 1984 and RCW 11.104.010 are each reenacted to read as follows:

As used in this chapter:

(1) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income;

(2) "Inventory value" means the cost of property purchased by the trustee and the cost or adjusted basis for federal income tax purposes of other property at the time it became subject to the trust, but in the case of a trust asset that is included on any death tax return the trustee may, but need not, use the value finally determined for the purposes of the federal estate tax if applicable, otherwise for another estate or inheritance tax;

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal.

Sec. 85. Section 2, chapter 74, Laws of 1971 as amended by section 117, chapter 149, Laws of 1984 and RCW 11.104.020 are each reenacted to read as follows:

(1) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is

credited or an expenditure is charged to income or principal or partly to each:

(a) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this chapter;

(b) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this chapter; or

(c) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which persons of prudence, discretion, and intelligence would act in the management of their own affairs.

(2) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation consistent with the instrument but that is contrary to a provision of this chapter.

Sec. 86. Section 3, chapter 74, Laws of 1971 as amended by section 118, chapter 149, Laws of 1984 and RCW 11.104.030 are each reenacted to read as follows:

(1) Income is the return in money or property derived from the use of principal, including:

(a) Rent of real or personal property, including sums received for cancellation or renewal of a lease;

(b) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in RCW 11.104.070 on bond premiums and bond discounts;

(c) Income earned during administration of a decedent's estate as provided in RCW 11.104.050;

(d) Corporate distributions as provided in RCW 11.104.060;

(e) Increment in value on bonds or other obligations issued at a discount as provided in RCW 11.104.070;

(f) Receipts from business and farming operations as provided in RCW 11.104.080;

(g) Receipts from disposition of natural resources as provided in RCW 11.104.090 and 11.104.100;

(h) Receipts from other principal subject to depletion as provided in RCW 11.104.110; and

(i) Receipts from disposition of underproductive property as provided in RCW 11.104.120.

(2) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return on or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes:

(a) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;

(b) Proceeds of property taken on eminent domain proceedings;

(c) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;

(d) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in RCW 11.104.060;

(e) Receipts from the disposition of corporate securities, bonds, or other obligations for the payment of money as provided in RCW 11.104.070;

(f) Royalties and other receipts from disposition of natural resources as provided in RCW 11.104.090 and 11.104.100;

(g) Receipts from other principal subject to depletion as provided in RCW 11.104.110;

(h) Any profit resulting from any change in the form of principal except as provided in RCW 11.104.120 on underproductive property;

(i) Receipts from disposition of underproductive property as provided in RCW 11.104.120; and

(j) Any allowances for depreciation established under RCW 11.104.080 and 11.104.130(1)(b).

(3) After determining income and principal in accordance with the terms of the trust instrument or of this chapter, the trustee shall charge to income or principal expenses and other charges as provided in RCW 11.104.130.

Sec. 87. Section 4, chapter 74, Laws of 1971 as amended by section 119, chapter 149, Laws of 1984 and RCW 11.104.040 are each reenacted and amended to read as follows:

(1) An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(2) Subject to subsection (2) (a) and (b) of this section, in the administration of a decedent's estate or of an asset becoming subject to a trust by reason of a will all receipts paid on or before the date of death of the testator are principal and all receipts paid after that date are income.

(a) Notwithstanding the foregoing, receipts due but not paid on or before the date of death of the testator are principal; and

(b) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due

on or before the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

(3) In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

(4) On the termination of an income beneficiary's income interest, if such interest was not subject to any discretion to withhold, accumulate, or distribute income to or for any other beneficiary, then income on hand but undistributed belongs to that income beneficiary or that beneficiary's estate, except that if the income beneficiary is the surviving spouse of the testator or grantor of the trust and the income interest otherwise qualifies for the marital deduction on any federal estate or gift tax return, then all accrued but undistributed income is subject to a testamentary general power of appointment in the surviving spouse, exercisable (~~((by will by specifically referring to this statute))~~) as provided in RCW 11.95.060 by specific reference to this statutory provision, to appoint the same to (~~((the testator or grantor or))~~) himself or herself, or to his or her estate. All undistributed income not disposed of under the foregoing provisions of this subsection shall be held and distributed as part of the next eventual interest or estate in accordance with the provisions of the will or trust relating to such next eventual interest or estate.

(5) Corporate distributions to stockholders shall be treated as due on the date fixed by the corporation for determination of stockholders of record entitled to distribution, or if no date is fixed, on the date of declaration of the distribution by the corporation.

Sec. 88. Section 5, chapter 74, Laws of 1971 as amended by section 120, chapter 149, Laws of 1984 and RCW 11.104.050 are each reenacted and amended to read as follows:

(1) Unless the will or the court otherwise provides and subject to subsection (2) of this section, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest due at death, and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate, except that the principal shall be reimbursed from income for any increase in estate taxes due to the use of administration expenses that were paid from principal as deductions for income tax purposes.

(2) Unless the will or the court otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trust under this chapter and distributed as follows:

(a) To beneficiaries of any specific bequest, legacy, or devise, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and appropriate portions of interest accrued since the death of the testator and of taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration;

(b) Subject to (c) of this subsection, to all other beneficiaries, including trusts, the balance of the income less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, plus the balance of all income accrued since the death of the testator, and less the balance of all taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of the fair value, provided, that the amount of income earned before the date or dates of payment of any estate or inheritance tax shall be distributed to those beneficiaries in proportion to their interests immediately before the making of those payments; and

(c) Pecuniary bequests not in trust do not receive income, and, subject to the provisions of RCW 11.56.160, all such bequests, including those to the decedent's surviving spouse, are not allocated any share of the expenses identified in subsection (2)(b) of this section.

(3) Any income with respect to which the income taxes have been paid which is payable in whole or in part to one or more charitable or other tax exempt (~~(organization[s])~~) organizations, and for which an income tax charitable deduction was allowable, shall be allocated among the distributees in such manner that the diminution in such taxes resulting from the charitable deduction allowable will inure to the benefit of the charitable or tax exempt organization giving rise to the deduction.

(4) Income received by a trustee under subsection (2) of this section shall be treated as income of the trust.

Sec. 89. Section 6, chapter 74, Laws of 1971 as amended by section 121, chapter 149, Laws of 1984 and RCW 11.104.060 are each reenacted to read as follows:

(1) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(2) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the stock became a part of the trust corpus or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:

- (a) A call of shares;
- (b) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (c) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(3) Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(4) Except as provided in subsections (1), (2), and (3) of this section all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections (2) and (3) of this section, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(5) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets.

Sec. 90. Section 7, chapter 74, Laws of 1971 as amended by section 122, chapter 149, Laws of 1984 and RCW 11.104.070 are each reenacted to read as follows:

(1) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection (2) for discount bonds. The trustee shall not provide for amortization of bond premiums or for accumulation of discount except where the trust instrument provides otherwise. If the instrument provides for amortization of premiums or accumulation of discount, but not both, and is silent as to one, it is the duty of the trustee to amortize premiums and accumulate discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(2) The increment in value of a bond or other obligation for the payment of money bearing no fixed rate of interest or payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. Except as otherwise provided in RCW 11.104.040(4), the increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale,

redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

Sec. 91. Section 8, chapter 74, Laws of 1971 as amended by section 123, chapter 149, Laws of 1984 and RCW 11.104.080 are each reenacted to read as follows:

If a trustee uses any part of the principal in the operation of a trade, business or farming operation, the proceeds and losses of the business shall be allocated in accordance with what is reasonable and equitable in view of the interest of those entitled to income as well as those entitled to principal, and in view of the manner in which persons of prudence, discretion, and intelligence would act in the management of their own affairs in accordance with RCW 11.104.020. The operation of real estate for rent is considered a business.

Sec. 92. Section 9, chapter 74, Laws of 1971 as amended by section 124, chapter 149, Laws of 1984 and RCW 11.104.090 are each reenacted to read as follows:

(1) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(a) If received as rent on a lease or extension payments on a lease, the receipts are income;

(b) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income; and

(c) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. Receipts shall be allocated to income or apportioned between income and principal at the discretion of the trustee, but in no event may principal be allocated more than that portion of the gross receipts that is deductible for federal income tax purposes during that year. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

(2) If a trustee, on January 1, 1972, held an item of depletable property of a type specified in this section, the trustee shall allocate receipts

from the property in the manner used before January 1, 1972, but as to all depletable property acquired after January 1, 1972 by an existing or new trust, the method of allocation provided herein shall be used.

(3) This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

Sec. 93. Section 12, chapter 74, Laws of 1971 as amended by section 125, chapter 149, Laws of 1984 and RCW 11.104.120 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (5) of this section, a portion of the net proceeds of sale of any part of principal which is underproductive shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received, less expenses, including any capital gains tax incurred in disposition, and less any carrying charges paid while the property was underproductive.

(2) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four percent per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any use of the property by the income beneficiary, is income, and the balance is principal.

(3) Except as otherwise provided in RCW 11.104.040(4), an income beneficiary is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficia

(4) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages (for example, realty acquired by or in lieu of foreclosure), the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

(5) This section does not apply to underproductive property that the trustee is authorized to retain by the terms of the controlling document or by law; that is received into or acquired by the trust from any source, except property which is purchased by the fiduciary in administering the trust((:)); the retention of which has been authorized in writing by the income beneficiaries((:)); or the retention of which would be considered proper under the standard set forth in RCW 11.100.020.

(6) As used in this section, the term "underproductive property" refers to any property that has not produced an average net income of at least one percent per year (simple interest) of its inventory value for more than a year

(including as income the value of any use of the property by the income beneficiary).

Sec. 94. Section 13, chapter 74, Laws of 1971 as amended by section 126, chapter 149, Laws of 1984 and RCW 11.104.130 are each reenacted and amended to read as follows:

(1) The following charges shall be made against income:

(a) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs;

(b) If the trustee deems the same to be appropriate under the standards in RCW 11.104.020(1)(c), a reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles; no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on January 1, 1972 for which the trustee is not then making an allowance for depreciation;

(c) One-half of court costs, attorney's fees, and other fees on periodic accountings, unless the court directs otherwise;

(d) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;

(e) One-half of the trustee's regular compensation, whether based on a percentage of principal or income (~~(, and all expenses reasonably incurred for current management of principal and application of income)~~);

(f) All expenses reasonably incurred for current management of principal and application of income; and

(g) Any tax levied upon receipts allocated to income under this chapter or the trust instrument and payable by the trustee.

(2) If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(3) The following charges shall be made against principal:

(a) Trustee's compensation not chargeable to income under subsections (1)(d) and (1)(e) of this section, special compensation of trustees, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;

(b) Charges not provided for in subsection (1) of this section, including the cost of investing and reinvesting principal, the payments on principal of an indebtedness (including a mortgage amortized by periodic payments of

principal), expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;

(c) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection (1)(b) of this section and by RCW 11.104.080;

(d) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the tax authority; and

(e) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest, whether on account of direct or indirect borrowing for the purpose of paying those taxes, and penalties, even though the income beneficiary also has rights in the principal.

(4) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under RCW 11.104.040.

Sec. 95. Section 30.30.010, chapter 33, Laws of 1955 as amended by section 128, chapter 149, Laws of 1984 and RCW 11.106.010 are each re-enacted to read as follows:

This chapter does not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiaries, investment trusts, voting trusts, insurance trusts prior to the death of the insured, trusts in the nature of mortgages or pledges, trusts created by judgment or decree of a federal court or of the superior court when not sitting in probate, liquidation trusts or trusts for the sole purpose of paying dividends, interest or interest coupons, salaries, wages or pensions; nor does this chapter apply to personal representatives.

Sec. 96. Section 30.30.020, chapter 33, Laws of 1955 as amended by section 129, chapter 149, Laws of 1984 and RCW 11.106.020 are each re-enacted to read as follows:

The trustee or trustees appointed by any will, deed, or agreement executed shall mail or deliver at least annually to each adult income trust beneficiary a written itemized statement of all current receipts and disbursements made by the trustee of the funds of the trust both principal and income, and upon the request of any such beneficiary shall furnish the beneficiary an itemized statement of all property then held by that trustee, and may also file any such statement in the superior court of the county in which the trustee or one of the trustees resides.

Sec. 97. Section 30.30.030, chapter 33, Laws of 1955 as amended by section 130, chapter 149, Laws of 1984 and RCW 11.106.030 are each re-enacted to read as follows:

In addition to the statement required by RCW 11.106.020 any such trustee or trustees whenever it or they so desire, may file in the superior court of the county in which the trustees or one of the trustees resides an intermediate account under oath showing:

- (1) The period covered by the account;
- (2) The total principal with which the trustee is chargeable according to the last preceding account or the inventory if there is no preceding account;
- (3) An itemized statement of all principal funds received and disbursed during such period;
- (4) An itemized statement of all income received and disbursed during such period, unless waived;
- (5) The balance of such principal and income remaining at the close of such period and how invested;
- (6) The names and addresses of all living beneficiaries, including contingent beneficiaries, of the trust, and a statement as to any such beneficiary known to be under legal disability;
- (7) A description of any possible unborn or unascertained beneficiary and his interest in the trust fund.

After the time for termination of the trust has arrived, the trustee or trustees may also file a final account in similar manner.

Sec. 98. Section 30.30.040, chapter 33, Laws of 1955 as amended by section 131, chapter 149, Laws of 1984 and RCW 11.106.040 are each re-enacted to read as follows:

Upon the petition under chapter 11.96 RCW of any settlor or of any beneficiary of such a trust after due notice as provided in chapter 11.96 RCW to the trustee the superior court in the county where the trustee or one of the trustees resides may direct the trustee or trustees to file in the court an account at any time after one year from the day on which such a report was last filed, or if none, then after one year from the inception of the trust.

Sec. 99. Section 30.30.050, chapter 33, Laws of 1955 as amended by section 132, chapter 149, Laws of 1984 and RCW 11.106.050 are each re-enacted and amended to read as follows:

When any account has been filed pursuant to RCW 11.106.030 or 11.106.040, the clerk of the court where filed shall fix a return day therefor as provided in RCW 11.96.090 and issue a notice (~~as provided in RCW 11.96.090~~). The notice shall state the time and place for the return date, the name or names of the trustee or trustees who have filed the account, that the account has been filed, that the court is asked to settle the account, and that any objections or exceptions to the account must be filed with the

clerk of the court on or before the return date. The notice shall be given as provided for notices under RCW 11.96.100 or 11.96.110.

Sec. 100. Section 30.30.060, chapter 33, Laws of 1955 as last amended by section 133, chapter 149, Laws of 1984 and RCW 11.106.060 are each reenacted to read as follows:

Upon or before the return date any beneficiary of the trust may file the beneficiary's written objections or exceptions to the account filed or to any action of the trustee or trustees set forth in the account. The court shall appoint guardians ad litem as provided in RCW 11.96.180 and the court may allow representatives to be appointed under RCW 11.96.110 and 11.96.170 to represent the persons listed in those sections.

Sec. 101. Section 30.30.070, chapter 33, Laws of 1955 as amended by section 134, chapter 149, Laws of 1984 and RCW 11.106.070 are each reenacted to read as follows:

Upon the return date or at some later date fixed by the court if so requested by one or more of the parties, the court without the intervention of a jury and after hearing all the evidence submitted shall determine the correctness of the account and the validity and propriety of all actions of the trustee or trustees set forth in the account including the purchase, retention, and disposition of any of the property and funds of the trust, and shall render its decree either approving or disapproving the account or any part of it, and surcharging the trustee or trustees for all losses, if any, caused by negligent or wilful breaches of trust.

Sec. 102. Section 30.30.080, chapter 33, Laws of 1955 as amended by section 135, chapter 149, Laws of 1984 and RCW 11.106.080 are each reenacted to read as follows:

The decree rendered under RCW 11.106.070 shall be deemed final, conclusive, and binding upon all the parties interested including all incompetent, unborn, and unascertained beneficiaries of the trust subject only to the right of appeal under RCW 11.106.090.

Sec. 103. Section 30.30.090, chapter 33, Laws of 1955 as last amended by section 136, chapter 149, Laws of 1984 and RCW 11.106.090 are each reenacted to read as follows:

The decree rendered under RCW 11.106.070 shall be a final order from which any party in interest may appeal as in civil actions to the supreme court or the court of appeals of the state of Washington.

Sec. 104. Section 30.30.100, chapter 33, Laws of 1955 as amended by section 137, chapter 149, Laws of 1984 and RCW 11.106.100 are each reenacted to read as follows:

Any adult beneficiary entitled to an accounting under either RCW 11.106.020 or 11.106.030 may waive such an accounting by a separate instrument delivered to the trustee.

Sec. 105. Section 30.30.110, chapter 33, Laws of 1955 as amended by section 138, chapter 149, Laws of 1984 and RCW 11.106.110 are each reenacted to read as follows:

This chapter is declared to be of similar import to the uniform trustees' accounting act. Any modification under chapter 11.97 RCW, including waiver, of the requirements of this chapter in any will, deed, or agreement heretofore or hereafter executed shall be given effect whether the waiver refers to the uniform trustees' accounting act by name or other reference or to any other act of like or similar import.

Sec. 106. Section 140, chapter 149, Laws of 1984 and RCW 11.108-.010 are each reenacted to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) The term "marital deduction" means the federal estate tax deduction allowed for transfers under section 2056 of the internal revenue code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction.

(5) The term "governing instrument" includes a will and codicils, irrevocable, and revocable trusts.

(6) "Fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) References to the "internal revenue code" are to the United States internal revenue code of 1954, as it is amended from time to time. Each reference to a section of the internal revenue code refers as well to any subsequent provisions of law enacted in its place.

(8) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument.

Sec. 107. Section 141, chapter 149, Laws of 1984 and RCW 11.108-.020 are each reenacted to read as follows:

If a governing instrument contains a marital deduction gift, the governing instrument, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the internal revenue code and the regulations thereunder in order to conform to that intent. Whether the governing instrument contains a marital deduction depends upon the intent of the testator at the time the governing instrument is executed. If the testator has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not

take any action or have any power that may impair that deduction. This section shall neither require nor prohibit a fiduciary from making the election referred to in section 2056(b)(7) of the internal revenue code.

Sec. 108. Section 142, chapter 149, Laws of 1984 and RCW 11.108-.030 are each reenacted to read as follows:

(1) If a governing instrument authorizes the fiduciary to satisfy a pecuniary bequest in whole or in part by distribution of property other than money, the assets selected for that purpose shall be valued at their respective fair market values on the date or dates of distribution, unless the governing instrument expressly provides otherwise. If the governing instrument permits the fiduciary to value the assets selected for the distribution as of a date other than the date or dates of distribution, then, unless the governing instrument expressly provides otherwise, the assets selected by the fiduciary for that purpose shall have an aggregate fair market value on the date or dates of distribution which, when added to any cash distributed, will amount to no less than the amount of that gift as stated in, or determined by, the governing instrument.

(2) A marital deduction gift shall be satisfied only with assets that qualify for those deductions.

Sec. 109. Section 143, chapter 149, Laws of 1984 and RCW 11.108-.040 are each reenacted and amended to read as follows:

(1) If a testator, under the terms of a governing instrument executed prior to September 12, 1981, leaves outright to or in trust for the benefit of that testator's surviving spouse an amount or fractional share of that testator's estate or a trust estate expressed in terms of one-half of that testator's federal adjusted gross estate, or by any other reference to the maximum estate tax marital deduction allowable under federal law without referring, either in that governing instrument or in any codicil or amendment thereto, specifically to the unlimited federal estate tax marital deduction enacted as part of the economic recovery tax act of 1981, such expression shall, unless subsection ~~((1) or)~~ (2) or (3) of this section applies, be construed as referring to the unlimited federal estate tax marital deduction, and also as expressing such amount or fractional share, as the case may be, in terms of the minimum amount which will cause the least possible amount of federal estate tax to be payable as a result of the testator's death, taking into account other property passing to the surviving spouse that qualifies for the marital deduction, at the value at which it qualifies, and also taking into account all credits against the federal estate tax, but only to the extent that the use of these credits do not increase the death tax payable.

(2) If this subsection applies to a testator, such expression shall be construed as referring to the estate tax marital deduction allowed by federal law immediately prior to the enactment of the unlimited estate tax marital deduction as a part of the economic recovery tax act of 1981. This subsection applies if subsection (3) of this section does not apply and:

(a) The application of this subsection to the testator will not cause an increase in the federal estate taxes payable as a result of the testator's death over the amount of such taxes which would be payable if subsection (1) of this section applied; or

(b) The testator is survived by a blood or adopted descendant who is not also a blood or adopted descendant of the testator's surviving spouse, unless such person or persons have entered into an agreement under the dispute resolution procedures in chapter 11.96 RCW; or

(c) The testator amended the governing instrument containing such expression after December 31, 1981, without amending such expression to refer expressly to the unlimited federal estate tax marital deduction.

(3) If the governing instrument contains language expressly stating that federal law of a particular time prior to January 1, 1982, is to govern the construction or interpretation of such expression, the expression shall be construed as referring to the marital deduction allowable under federal law in force and effect as of that time.

(4) If subsection (2) or (3) of this section applies to the testator (~~and if the expression contains any provision reducing the amount or the fractional share left outright to or in trust for the benefit of the surviving spouse by other property passing to the surviving spouse and qualifying for the federal estate tax marital deduction, the provision~~), the expression shall not be construed as referring to any property that the personal representative of the testator's estate or other authorized fiduciary elects to qualify for the federal estate tax marital deduction as qualified terminable interest property. If subsection (1) of this section applies to the testator, any ((such)) provision shall be construed as referring to any property that the personal representative of the testator's estate or other authorized fiduciary elects to qualify for the federal estate tax marital deduction as qualified terminable interest property, but only to the extent that such construction does not cause the amount or fractional share left to or for the benefit of the surviving spouse to be reduced below the amount that would pass under subsection (2) or (3) of this section, whichever is applicable.

(5) This section is effective with respect to testators dying after December 31, 1982.

Sec. 110. Section 144, chapter 149, Laws of 1984 and RCW 11.108-.050 are each reenacted and amended to read as follows:

If a governing instrument indicates the testator's intention to make a marital deduction gift in trust, in addition to the other provisions of this section, each of the following also applies to the trust; provided, however, that such provisions shall not apply to any trust which provides for the entire then remaining trust estate to be paid on the termination of the income interest to the estate of the spouse of the trust's creator, or to a charitable beneficiary, contributions to which are tax deductible for federal income tax purposes:

(1) The only income beneficiary of a marital deduction trust is the testator's surviving spouse;

(2) The income beneficiary is entitled to all of the trust income until the trust terminates;

(3) The trust income is payable to the income beneficiary not less frequently than annually; and

(4) Except in the case of ~~((qualified terminable interest property resulting from))~~ property that has or would otherwise have qualified for the marital deduction only as the result of an election under section 2056(b)(7) of the internal revenue code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, pass either to the income beneficiary or under the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity in trust or outright. The general power of appointment is exercisable by the income beneficiary alone and in all events~~((; and the income beneficiary, or a fiduciary acting in behalf of the income beneficiary if he or she is then a minor or incompetent, may exercise it in a will or an instrument other than a will unless the instrument creating the power specifically directs otherwise))~~.

The exercise of the general power of appointment provided in this section shall be done only by ~~((express written reference to this general power of appointment in a will or inter vivos trust instrument executed by))~~ the income beneficiary in the manner provided by RCW 11.95.060 by specifically referring to this section.

Sec. 111. Section 145, chapter 149, Laws of 1984 and RCW 11.108-.060 are each reenacted to read as follows:

If a governing instrument contains a marital deduction gift, whether outright or in trust and whether there is a specific reference to this section, any survivorship requirement expressed in the governing instrument in excess of six months does not apply to property passing under a marital deduction, and in addition, is limited to a six-month period beginning with the testator's death.

Sec. 112. Section 146, chapter 149, Laws of 1984 and RCW 11.108-.900 are each reenacted and amended to read as follows:

This chapter applies to ~~((any distribution made))~~ all estates, trusts, and governing instruments in existence on or any time after March 7, 1984, ((whether the testator died before or)) and to all proceedings with respect thereto after that date, whether the proceedings commenced before or after that date, and including distributions made after that date. This chapter shall not apply to any governing instrument the terms of which expressly or by necessary implication make this chapter inapplicable. The judicial and nonjudicial dispute resolution procedures of chapter 11.96 RCW apply to this chapter.

Sec. 113. Section 1, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.010 are each reenacted to read as follows:

The purpose of this chapter is to facilitate public supervision over the administration of public charitable trusts and similar relationships and to clarify and implement the powers and duties of the attorney general with relation thereto.

Sec. 114. Section 2, chapter 53, Laws of 1967 ex. sess. as amended by section 1, chapter 226, Laws of 1971 ex. sess. and RCW 11.110.020 are each reenacted to read as follows:

When used in this chapter, unless the context otherwise requires:

"Person" means an individual, organization, group, association, partnership, corporation, or any combination of them.

"Trustee" means (1) any person holding property in trust for a public charitable purpose; except the United States, its states, territories, and possessions, the District of Columbia, Puerto Rico, and their agencies and subdivisions; and (2) a corporation formed for the administration of a charitable trust or holding assets subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes: PROVIDED, That the term "trustee" does not apply to (a) religious corporations duly organized and operated in good faith as religious organizations, which have received a declaration of current tax exempt status from the government of the United States; their duly organized branches or chapters; and charities, agencies, and organizations affiliated with and forming an integral part of said organization, or operated, supervised, or controlled directly by such religious corporations nor any officer of any such religious organization who holds property for religious purposes: PROVIDED, That if such organization has not received from the United States government a declaration of current tax exempt status prior to the time it receives property under the terms of a charitable trust, this exemption shall be applicable for two years only from the time of receiving such property, or until such tax exempt status is finally declared, whichever is sooner; or (b) an educational institution which is nonprofit and charitable, having a program of primary, secondary, or collegiate instruction comparable in scope to that of any public school or college operated by the state of Washington or any of its school districts.

Sec. 115. Section 4, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.040 are each reenacted to read as follows:

All information, documents, and reports filed with the attorney general under this chapter are matters of public record and shall be open to public inspection, subject to reasonable regulation: PROVIDED, That the attorney general shall withhold from public inspection any trust instrument so filed whose content is not exclusively for charitable purposes. The attorney general may publish, on a periodic or other basis, such information as may be necessary or appropriate in the public interest concerning the registration,

reports, and information filed with him or any other matters relevant to the administration and enforcement of this chapter.

Sec. 116. Section 5, chapter 53, Laws of 1967 ex. sess. as amended by section 149, chapter 149, Laws of 1984 and RCW 11.110.050 are each reenacted to read as follows:

The attorney general shall establish and maintain a register of trustees as defined in RCW 11.110.020 and, to that end, shall conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing authorities, trustees, and other sources whatever information, copies of instruments, reports, and records are needed, for the establishment and maintenance of the register.

Sec. 117. Section 6, chapter 53, Laws of 1967 ex. sess. as last amended by section 150, chapter 149, Laws of 1984 and RCW 11.110.060 are each reenacted and amended to read as follows:

Every trustee shall file with the attorney general within two months after receiving possession or control of the trust corpus a copy of the instrument establishing his title, powers, or duties, and an inventory of the assets of such charitable trust. In addition, trustees exempted from the provisions of RCW 11.110.070 by RCW 11.110.073 shall file with the attorney general a copy of the declaration of the tax-exempt status or other basis of the claim for such exemption; a copy of the instrument establishing the trustee's title, powers or duties; an inventory of the assets of such trust; and, annually, a copy of each publicly available United States tax or information return or report of the trust which the trustee files with the internal revenue service. The trustees of charitable trusts existing at the time this chapter (~~((takes effect))~~) takes effect or on August 9, 1971, shall comply with this section within six months thereafter.

Sec. 118. Section 7, chapter 53, Laws of 1967 ex. sess. as amended by section 3, chapter 226, Laws of 1971 ex. sess. and RCW 11.110.070 are each reenacted to read as follows:

Except as otherwise provided every trustee subject to this chapter shall file with the attorney general annual reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules and regulations of the attorney general.

The attorney general shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required, to the ends (1) that he shall receive reasonably current, periodic

reports as to all charitable trusts or other relationships of a similar nature which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The attorney general may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the attorney general, may be filed as a report required by this section.

The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within six months after the effective date of this act.

Sec. 119. Section 4, chapter 226, Laws of 1971 ex. sess. as amended by section 153, chapter 149, Laws of 1984 and RCW 11.110.073 are each re-enacted to read as follows:

The following trustees shall be exempt from the provisions of RCW 11.110.070, but shall file the information required in RCW 11.110.060:

(1) A bank or trust company subject to examination by the supervisor of banking of the state of Washington, the comptroller of the currency of the United States or the board of governors of the federal reserve system; which such bank or trust company is acting as trustee, executor or court-appointed fiduciary: PROVIDED, That a bank or trust company which is a co-fiduciary of a trust shall be deemed to be the sole fiduciary of such trust under this section, if the bank or trust company is custodian of the books and records of the trust and has the responsibility for preparing the reports and returns which are filed with the internal revenue service;

(2) The governing body of a nonprofit community foundation or other nonprofit foundation incorporated for charitable purposes, contributions to which are currently allowed as charitable deductions under the United States income tax laws;

(3) The governing body of a hospital which is nonprofit and charitable, other than a hospital initially formed as a trustee pursuant to or in connection with the terms of a charitable trust.

Sec. 120. Section 5, chapter 226, Laws of 1971 ex. sess. as amended by section 154, chapter 149, Laws of 1984 and RCW 11.110.075 are each reenacted to read as follows:

A trust is not exclusively for charitable purposes, within the meaning of RCW 11.110.040, when the instrument creating it contains a trust for several or mixed purposes, and any one or more of such purposes is not charitable within the meaning of RCW 11.110.020, as enacted or hereafter amended. Such instrument shall be withheld from public inspection by the attorney general and no information as to such noncharitable purpose shall be made public.

Annual reporting of such trusts to the attorney general, as required by RCW 11.110.060 or 11.110.070, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

When a trust consists of a vested charitable remainder preceded by a life estate, a copy of the instrument shall be filed by the trustee or by the life tenant, within two months after commencement of the life estate.

If the trust instrument contains only contingent gifts or remainders to charitable purposes, no charitable trust shall be deemed created until a charitable gift or remainder is legally vested. The first registration or report of such trust shall be filed within two months after trust income or principal is authorized or required to be used for a charitable purpose.

Sec. 121. Section 8, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.080 are each reenacted to read as follows:

The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts shall furnish within two months after receiving possession or control thereof such copies of papers, records, and files of his office relating to the subject of this chapter as the attorney general shall require.

Every officer, agency, board or commission of this state receiving applications for exemption from taxation of any charitable trust or similar relationship in which the trustee is subject to this chapter shall annually file with the attorney general a list of all applications received during the year.

Sec. 122. Section 9, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.090 are each reenacted to read as follows:

It is the purpose of this chapter to make uniform the laws of this and other states on the subject of charitable trusts and similar relationships. Recognizing the necessity for uniform application and enforcement of this chapter, its provisions are hereby declared mandatory and they shall not be superseded by the provisions of any trust instrument or similar instrument to the contrary.

Sec. 123. Section 10, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.100 are each reenacted to read as follows:

The attorney general may investigate transactions and relationships of trustees and other persons subject to this chapter for the purpose of determining whether the trust or other relationship is administered according to law and the terms and purposes of the trust, or to determine compliance with this chapter in any other respect. He may require any officer, agent, trustee, fiduciary, beneficiary, or other person, to appear, at a time and place designated by the attorney general in the county where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title, and evidence of assets, liabilities, receipts, or disbursements in the possession or control of the person ordered to appear.

Sec. 124. Section 11, chapter 53, Laws of 1967 ex. sess. as last amended by section 157, chapter 149, Laws of 1984 and RCW 11.110.110 are each reenacted to read as follows:

When the attorney general requires the attendance of any person, as provided in RCW 11.110.100, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the supreme court or the court of appeals by certiorari or other appropriate proceeding.

Sec. 125. Section 12, chapter 53, Laws of 1967 ex. sess. as amended by section 158, chapter 149, Laws of 1984 and RCW 11.110.120 are each reenacted to read as follows:

The attorney general may institute appropriate proceedings to secure compliance with this chapter and to secure the proper administration of any trust or other relationship to which this chapter applies. He shall be notified of all judicial proceedings involving or affecting the charitable trust or its administration in which, at common law, he is a necessary or proper party as representative of the public beneficiaries. The notification shall be given as provided in RCW 11.96.100, but this notice requirement may be waived at the discretion of the attorney general. The powers and duties of the attorney general provided in this chapter are in addition to his existing powers and duties, and are not to be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general or of any prosecuting attorney which they may exercise or perform under any

other provision of law. Except as provided herein, nothing in this chapter shall impair or restrict the jurisdiction of any court with respect to any of the matters covered by it.

Sec. 126. Section 6, chapter 226, Laws of 1971 ex. sess. and RCW 11.110.125 are each reenacted to read as follows:

The wilful refusal by a trustee to make or file any report or to perform any other duties expressly required by this chapter, or to comply with any valid rule or regulation promulgated by the attorney general under this chapter, shall constitute a breach of trust and a violation of this chapter.

Sec. 127. Section 13, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.130 are each reenacted to read as follows:

A civil action for a violation of this chapter may be prosecuted by the attorney general or by a prosecuting attorney designated by the attorney general.

Sec. 128. Section 14, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.140 are each reenacted to read as follows:

Every false statement of material fact knowingly made or caused to be made by any person in any statement or report filed under this chapter and every other violation of this chapter is a gross misdemeanor.

Sec. 129. Section 1, chapter 58, Laws of 1971 as amended by section 161, chapter 149, Laws of 1984 and RCW 11.110.200 are each reenacted to read as follows:

RCW 11.110.200 through 11.110.260 shall apply only to trusts which are "private foundations" as defined in section 509 of the Internal Revenue Code of 1954, "charitable trusts" as described in section 4947(a)(1) of the Internal Revenue Code of 1954, or "split-interest trusts" as described in section 4947(a)(2) of the Internal Revenue Code of 1954. With respect to any such trust created after December 31, 1969, RCW 11.110.200 through 11.110.260 shall apply from such trust's creation. With respect to any such trust created before January 1, 1970, RCW 11.110.200 through 11.110.260 shall apply only to such trust's federal taxable years beginning after December 31, 1971.

Sec. 130. Section 2, chapter 58, Laws of 1971 as amended by section 162, chapter 149, Laws of 1984 and RCW 11.110.210 are each reenacted to read as follows:

The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies shall be deemed to contain provisions prohibiting the trustee from:

(1) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954;

(2) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1954;

(3) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1954; and

(4) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1954:

PROVIDED, That this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code of 1954.

Sec. 131. Section 3, chapter 58, Laws of 1971 as amended by section 163, chapter 149, Laws of 1984 and RCW 11.110.220 are each reenacted to read as follows:

The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies, except "split-interest" trusts, shall be deemed to contain a provision requiring the trustee to distribute, for the purposes specified in the trust instrument, for each taxable year of the trust, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954.

Sec. 132. Section 4, chapter 58, Laws of 1971 as amended by section 164, chapter 149, Laws of 1984 and RCW 11.110.230 are each reenacted to read as follows:

Nothing in RCW 11.110.200 through 11.110.260 shall impair the rights and powers of the courts or the attorney general of this state with respect to any trust.

Sec. 133. Section 5, chapter 58, Laws of 1971 as last amended by section 165, chapter 149, Laws of 1984 and RCW 11.110.240 are each reenacted to read as follows:

All references to sections of the Internal Revenue Code of 1954 shall include all amendments thereto adopted by the Congress of the United States on or before January 1, 1985.

Sec. 134. Section 6, chapter 58, Laws of 1971 as amended by section 167, chapter 149, Laws of 1984 and RCW 11.110.250 are each reenacted to read as follows:

Nothing in RCW 11.110.200 through 11.110.260 shall limit the power of a person who creates a trust after June 10, 1971 or the power of a person

who has retained or has been granted the right to amend a trust created before June 10, 1971, to include a specific provision in the trust instrument or an amendment thereto, as the case may be, which provides that some or all of the provisions of RCW 11.110.210 and 11.110.220 shall have no application to such trust.

Sec. 135. Section 7, chapter 58, Laws of 1971 as amended by section 168, chapter 149, Laws of 1984 and RCW 11.110.260 are each reenacted to read as follows:

If any provision of RCW 11.110.200 through 11.110.260 or the application thereof to any trust is held invalid, such invalidity shall not affect the other provisions or applications of RCW 11.110.200 through 11.110.260 which can be given effect without the invalid provision or application, and to this end the provisions of RCW 11.110.200 through 11.110.260 are declared to be severable.

Sec. 136. Section 15, chapter 53, Laws of 1967 ex. sess. and RCW 11.110.900 are each reenacted to read as follows:

If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Sec. 137. Section 30.04.310, chapter 33, Laws of 1955 as amended by section 173, chapter 149, Laws of 1984 and RCW 30.04.310 are each reenacted to read as follows:

Every bank or trust company which violates or fails to comply with any provision of chapters 30.04 through 30.23 RCW, inclusive, and chapters 30.44 and 11.100 RCW of this title or any lawful direction or requirement of the supervisor shall be subject, in addition to any penalty now provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense.

Sec. 138. Section 127, chapter 247, Laws of 1943 as last amended by section 175, chapter 149, Laws of 1984 and RCW 68.44.030 are each reenacted to read as follows:

Endowment care funds shall be kept invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(1) No officer or director of the cemetery authority, trustee of the endowment care or special care funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, shall borrow any of such funds for himself, directly or indirectly.

(2) No funds shall be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership, or other business entity in which the cemetery authority has any ownership interest.

(3) No funds shall be invested with persons or business entities operating in a business field directly related to cemeteries, including, but not limited to, mortuaries, monument production and sales, florists, and rental of funeral facilities.

(4) Notwithstanding any other provisions contained in this section, funds may be invested in any commercial bank, mutual savings bank, or savings and loan association duly chartered and operating under the laws of the United States or statutes of the state of Washington.

NEW SECTION. Sec. 139. A new section is added to chapter 11.02 RCW to read as follows:

(1) Nothing in chapter —, Laws of 1985 (this act), SB — (Z-577/85), SB — (Z-449/85), SB — (Z-450/85), SB — (Z-471/85), SB — (Z-474/85), or SB — (Z-476/85) shall invalidate or nullify:

(a) Any instrument or property relationship that is executed and irrevocable as of the effective date of this act; or

(b) Any action undertaken in a proceeding where the action was commenced before the effective date of this act, as long as the instrument, property relationship, or action complies with chapter 149, Laws of 1984.

(2) Except as specifically provided otherwise in chapter 149, Laws of 1984 as amended and reenacted in 1985, chapter 149, Laws of 1984 as amended and reenacted in 1985 shall apply to all instruments, property relationships, and proceedings existing on January 1, 1985.

NEW SECTION. Sec. 140. A new section is added to chapter 11.94 RCW to read as follows:

Sections 26 through 31, chapter 149, Laws of 1984 apply as of January 1, 1985, to all existing or subsequently executed instruments but shall not apply to any instrument the terms of which expressly or impliedly make those sections inapplicable.

NEW SECTION. Sec. 141. A new section is added to chapter 11.98 RCW to read as follows:

Where a vacancy occurs in the office of trustee under the circumstances described in RCW 11.98.039 (1) or (2), the outgoing trustee shall be discharged upon the agreement of all parties entitled to notice or upon the expiration of thirty days after notice is given of such vacancy as required by the applicable subsection of RCW 11.98.039, whichever occurs first, or if no notice is required under RCW 11.98.039(1), upon the date the vacancy occurs, unless before the effective date of such discharge a petition is filed under RCW 11.98.039(3) regarding the appointment or change of a trustee of the trust. Where a petition is filed under RCW 11.98.039(3) regarding the appointment or change of a trustee, the superior court having jurisdiction may discharge the trustee from the trust and may appoint a successor trustee upon such terms as the court may require.

NEW SECTION. Sec. 142. A new section is added to chapter 11.104 RCW to read as follows:

Sections 116 through 126, chapter 149, Laws of 1984, as amended and reenacted in 1985, shall apply as of January 1, 1985.

NEW SECTION. Sec. 143. The following acts or parts of acts are each repealed:

(1) Section 11.16.050, chapter 145, Laws of 1965, section 4, chapter 168, Laws of 1967 and RCW 11.16.050;

(2) Section 4, chapter 124, Laws of 1959 and RCW 11.98.029;

(3) Section 8, chapter 88, Laws of 1967 ex. sess., section 33, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.010;

(4) Section 9, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.020;

(5) Section 10, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.030;

(6) Section 11, chapter 88, Laws of 1967 ex. sess., section 34, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.040;

(7) Section 12, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.050;

(8) Section 13, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.060;

(9) Section 14, chapter 88, Laws of 1967 ex. sess., section 35, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.070;

(10) Section 15, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.080;

(11) Section 16, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.090;

(12) Section 17, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.100;

(13) Section 18, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.110;

(14) Section 19, chapter 88, Laws of 1967 ex. sess. and RCW 21.25-.900; and

(15) Section 30.24.060, chapter 33, Laws of 1955, section 1, chapter 209, Laws of 1967 and RCW 30.24.060.

NEW SECTION. Sec. 144. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 145. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 29, 1985.

Passed the House March 25, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 31

[Senate Bill No. 3079]

TRUST ACT—JURISDICTION AND PROCEDURE IN TRUST AND ESTATE PROCEEDINGS—TECHNICAL CORRECTIONS

AN ACT Relating to jurisdiction and procedure in trust and estate proceedings; making technical corrections to the Washington Trust Act of 1984; reenacting and amending RCW 11.96.060, 11.96.070, 11.96.100, 11.96.110, and 11.96.130; reenacting RCW 11.96.009, 11.96.020, 11.96.030, 11.96.040, 11.96.050, 11.96.080, 11.96.090, 11.96.120, 11.96.140, 11.96.150, 11.96.160, and 11.96.180; reenacting and amending RCW 11.96.170; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 11.02.010, chapter 145, Laws of 1965 as amended by section 41, chapter 149, Laws of 1984 and RCW 11.96.009 are each reenacted to read as follows:

(1) The superior court shall have original jurisdiction over probates in the following instances:

- (a) When a resident of the state dies; or
- (b) When a nonresident of the state dies in the state; or
- (c) When a nonresident of the state dies outside the state.

(2) The superior court shall have original jurisdiction over trusts and trust matters.

(3) The superior courts in the exercise of their jurisdiction of matters of probate and trusts shall have power to probate or refuse to probate wills, appoint personal representatives of deceased, incompetent, or disabled persons and administer and settle all such estates, and administer and settle all trusts and trust matters, award processes and cause to come before them all persons whom they may deem it necessary to examine, and order and cause to be issued all such writs as may be proper or necessary, and do all things proper or incident to the exercise of such jurisdiction.

Sec. 3. Section 11.02.020, chapter 145, Laws of 1965 as amended by section 42, chapter 149, Laws of 1984 and RCW 11.96.020 are each reenacted to read as follows:

It is the intention of this title that the courts mentioned shall have full and ample power and authority to administer and settle all estates of decedents and incompetent and disabled persons in this title mentioned and to administer and settle all trusts and trust matters. If the provisions of this title with reference to the administration and settlement of such estates or trusts should in any cases and under any circumstances be inapplicable or insufficient or doubtful, the court shall nevertheless have full power and authority to proceed with such administration and settlement in any manner and way which to the court seems right and proper, all to the end that such estates or trusts may be by the court administered upon and settled.

Sec. 4. Section 11.02.030, chapter 145, Laws of 1965 and RCW 11.96.030 are each reenacted to read as follows:

In exercising any of the jurisdiction or powers by this title given or intended to be given, the court is authorized to make, issue and cause to be filed or served, any and all manner and kinds of orders, judgments, citations, notices, summons, and other writs and processes not inconsistent with the provisions of this title, which may be considered proper or necessary in the exercise of such jurisdiction.

Sec. 5. Section 45, chapter 149, Laws of 1984 and RCW 11.96.040 are each reenacted to read as follows:

Unless otherwise provided in the instrument creating the trust, the situs of a trust is the place where the principal place of administration of the trust is located. As used in this section, the "principal place of administration of the trust" is the trustee's usual place of business where the day-to-day records pertaining to the trust are kept or the trustee's residence if the trustee has no such place of business.

Sec. 6. Section 46, chapter 149, Laws of 1984 and RCW 11.96.050 are each reenacted to read as follows:

For purposes of venue in proceedings involving probate or trusts and trust matters, the following shall apply:

(1) Proceedings under Title 11 RCW pertaining to trusts shall be commenced either:

(a) In the superior court of the county in which the situs of the trust is located as provided in RCW 11.96.040;

(b) In the superior court of the county in which a trustee resides or has its principal place of business; or

(c) With respect to testamentary trusts, in the superior court of the county where letters testamentary were granted to a personal representative, and in the absence of such letters, then in any county where letters testamentary could have been granted in accordance with subsection (2) of this section.

(2) Wills shall be proven, letters testamentary or of administration granted, and other proceedings under Title 11 RCW pertaining to probate commenced, either:

(a) In the county in which the decedent was a resident at the time of death;

(b) In the county in which the decedent died, or in which any part of the estate may be, if the decedent was not a resident of this state; or

(c) In the county in which any part of the estate may be, the decedent having died out-of-state, and not having been resident in this state at the time of death.

(3) No action undertaken is defective or invalid because of improper venue if the court has jurisdiction of the matter.

Sec. 7. Section 47, chapter 149, Laws of 1984 and RCW 11.96.060 are each reenacted and amended to read as follows:

(1) Any action against the trustee of an express trust, excluding those trusts excluded from the definition of express trusts under RCW 11.98.009, but including all express trusts, whenever executed, for any breach of fiduciary duty, must be brought within three years from the earlier of (a) the time the alleged breach was discovered or reasonably should have been discovered, ~~((or))~~ (b) the discharge of a trustee from the trust as provided in RCW 11.98.040, or (c) the time of termination of the trust or the trustee's repudiation of the trust.

(2) Any action by an heir, legatee, or other interested party, to whom proper notice was given if required, against a personal representative for alleged breach of fiduciary duty must be brought prior to discharge of the personal representative.

(3) ~~((The tolling provisions of RCW 4.16.190 apply to this chapter, except that the running of the statute of limitations stated in subsection (2) of this section is not tolled if the minor, incompetent, or disabled person had a guardian ad litem or a limited or general guardian of the estate to represent the person during the probate proceeding))~~ The tolling provisions of RCW 4.16.190 apply to this chapter except that the running of any statute of limitations stated in subsection (1) or (2) of this section, or any other applicable statute of limitations for any matter that is the subject of dispute under chapter 11.96 RCW, is not tolled if the unascertained or unborn heir, beneficiary, or class of persons, or minor, incompetent, or disabled person, or person identified in RCW 11.96.170(2) or 11.96.180 whose identity or address is unknown, had a guardian ad litem, limited or general guardian of the estate, or a special representative to represent the person during the probate or dispute resolution proceeding.

(4) Notwithstanding subsections (2) and (3) of this section, any cause of action against a trustee of an express trust, as provided for in subsection (1) of this section is not barred by the statute of limitations if it is brought within three years from January 1, 1985. In addition, any action as specified

in subsection (2) of this section against the personal representative is not barred by this statute of limitations if it is brought within one year of January 1, 1985.

Sec. 8. Section 48, chapter 149, Laws of 1984 and RCW 11.96.070 are each reenacted and amended to read as follows:

A trustor, grantor, personal representative, trustee, or other fiduciary, creditor, devisee, legatee, heir, or trust beneficiary interested in the administration of a trust, or the attorney general in the case of a charitable trust under RCW 11.110.120, or of the estate of a decedent, incompetent, or disabled person, may have a judicial proceeding for the declaration of rights or legal relations in respect to the trust or estate:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(2) To direct the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity;

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings;

(4) To confer upon the personal representatives or trustees any necessary or desirable powers not otherwise granted in the instrument or given by law that the court determines are not inconsistent with the provisions or purposes of the will or trust;

(5) To amend or conform the will or the trust instrument in the manner required to qualify the gift thereunder for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest; or

(6) To resolve any other matter in this title referencing this judicial proceedings section.

The provisions of this chapter apply to disputes arising in connection with estates of incompetents or disabled persons unless otherwise covered by chapters 11.88 and 11.92 RCW.

Sec. 9. Section 49, chapter 149, Laws of 1984 and RCW 11.96.080 are each reenacted to read as follows:

The court shall make an order fixing the time and place for hearing the petition. The court shall approve the form and content of the notice. Notice of hearing shall be signed by the clerk of the court.

Sec. 10. Section 11.02.060, chapter 145, Laws of 1985 as amended by section 51, chapter 149, Laws of 1984 and RCW 11.96.090 are each reenacted to read as follows:

The clerk of each of the superior courts is authorized to fix the time of hearing of all applications, petitions and reports in probate and guardianship proceedings, except the time for hearings upon show cause orders and citations and except for the time of hearings set under RCW 11.96.080. The authority herein granted is in addition to the authority vested in the superior courts and superior court commissioners.

Sec. 11. Section 53, chapter 149, Laws of 1984 and RCW 11.96.100 are each reenacted and amended to read as follows:

Subject to RCW 11.96.110, in all judicial proceedings under Title 11 RCW that require notice, such notice shall be personally served or mailed to each trustee, personal representative, heir, beneficiary including devisees, legatees, and heirs, guardian ad litem, and person having an interest in the trust or estate whose name and address are known to the petitioner at least twenty days prior to the hearing on the petition, unless otherwise provided by statute or ordered by the court under RCW 11.96.080. Proof of such service or mailing shall be made by affidavit filed at or before the hearing. In addition, notice shall also be given to the attorney general if required under RCW 11.110.120.

Sec. 12. Section 54, chapter 149, Laws of 1984 and RCW 11.96.110 are each reenacted and amended to read as follows:

Notwithstanding provisions of this chapter to the contrary, there is compliance with the notice requirements of Title 11 RCW for notice to the beneficiaries of, or persons interested in an estate or a trust, or to beneficiaries or remaindermen, including all living persons who may participate in the corpus or income of the trust or estate, if notice is given as follows:

(1) If an interest in an estate or trust has been given to persons who compose a certain class upon the happening of a certain event, notice shall be given to the living persons who would constitute the class if the event had happened immediately before the commencement of the proceeding requiring notice.

(2) If an interest in an estate or trust has been given to a living person, and the same interest, or a share in it, is to pass to the surviving spouse or to persons who are, or may be, the distributees, heirs, issue, or other kindred of that living person upon the happening of a future event, notice shall be given to that living person.

(3) Except as otherwise provided in subsection (2) of this section, if an interest in an estate or trust has been given to a person, a class of persons, or both upon the happening of any future event, and the same interest or a share of such interest is to pass to another person, class of persons, or both, upon the happening of an additional future event, notice shall be given to the living person or persons who would take the interest upon the happening of the first event.

(4) Notice shall be given to persons who would not otherwise be entitled to notice by law if a conflict of interest involving the subject matter of

the trust or estate proceeding is known to exist((s)) between a person to whom notice is given and a person to whom notice need not be given under Title 11 RCW.

Any action taken by the court is conclusive and binding upon each person receiving actual or constructive notice in the manner provided in this section.

Sec. 13. Section 55, chapter 149, Laws of 1984 and RCW 11.96.120 are each reenacted to read as follows:

Nothing in this chapter eliminates the requirement to give notice to a person who has requested special notice under RCW 11.28.240 or 11.92.150.

Sec. 14. Section 56, chapter 149, Laws of 1984 and RCW 11.96.130 are each reenacted and amended to read as follows:

All issues of fact joined in probate or trust proceedings shall be tried in conformity with the requirements of the rules of practice in civil actions. The probate or trust proceeding may be commenced as a new action or as an action incidental to an existing probate or trust proceeding. Once commenced, the action may be consolidated with an existing probate or trust proceeding or converted to a separate action upon the motion of any party for good cause shown, or by the court on its own motion. ~~((If the action is incidental to an existing proceeding, all pleadings shall set forth the caption of the existing proceeding followed by an appropriate caption designating the parties to the new proceeding. The party affirming is plaintiff, and the one denying or avoiding is defendant.))~~ If a party is entitled to a trial by jury and a jury is demanded, and the issues are not sufficiently made up by the written pleadings on file, the court, on due notice, shall settle and frame the issues to be tried. If no jury is demanded, the court shall try the issues joined, and sign and file its findings and decision in writing, as provided for in civil actions. Judgment on the issue joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions.

Sec. 15. Section 57, chapter 149, Laws of 1984 and RCW 11.96.140 are each reenacted to read as follows:

Either the superior court or the court on appeal, may, in its discretion, order costs, including attorneys fees, to be paid by any party to the proceedings or out of the assets of the estate, as justice may require.

Sec. 16. Section 30.30.120, chapter 33, Laws of 1955 and RCW 11.96.150 are each reenacted to read as follows:

Nothing in RCW 6.32.250 shall forbid execution upon the income of any trust created by a person other than the judgment debtor for debt arising through the furnishing of the necessities of life to the beneficiary of such trust; or as to such income forbid the enforcement of any order of the superior court requiring the payment of support for the children under the age

of eighteen of any beneficiary; or forbid the enforcement of any order of the superior court subjecting the vested remainder of any such trust upon its expiration to execution for the debts of the remainderman.

Sec. 17. Section 11.96.010, chapter 145, Laws of 1965 as amended by section 53, chapter 81, Laws of 1971 and RCW 11.96.160 are each reenacted to read as follows:

Any interested party may appeal to the supreme court or the court of appeals from any final order, judgment or decree of the court, and such appeals shall be in the manner and way provided by law for appeals in civil actions.

Sec. 18. Section 61, chapter 149, Laws of 1984 and RCW 11.96.170 are each reenacted to read as follows:

(1) If the persons listed in RCW 11.96.070 and those entitled to notice under RCW 11.96.100 and 11.96.110 agree on any matter listed in RCW 11.96.070 or any other matter in Title 11 RCW referencing this nonjudicial resolution procedure, then the agreement shall be evidenced by a written agreement executed by all necessary persons as provided in this section.

(2) If necessary, the personal representative or trustee may petition the court for the appointment of a special representative to represent a person interested in the estate or trust who is a minor, incompetent, disabled, or who is yet unborn or unascertained, or a person whose identity or address is unknown. The special representative has authority to enter into a binding agreement on behalf of the person or beneficiary. The special representative may be appointed for more than one person or class of persons if the interests of such persons or class are not in conflict. Those entitled to receive notice for persons or beneficiaries described in RCW 11.96.110 may enter into a binding agreement on behalf of such persons or beneficiaries.

(3) The special representative shall be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative shall have no interest in any affected estate or trust, and shall not be related to any personal representative, trustee, beneficiary, or other person interested in the estate or trust. The special representative is entitled to reasonable compensation for services which shall be paid from the principal of the estate or trust whose beneficiaries are represented. Upon execution of the written agreement, the special representative shall be discharged of any further responsibility with respect to the estate or trust.

(4) The written agreement or a memorandum summarizing the provisions of the written agreement may, at the option of any person interested in the estate or trust, be filed with the court having jurisdiction over the estate or trust. The person filing the agreement or memorandum shall within five days thereof mail a copy of the agreement and a notice of the filing to each person interested in the estate or trust whose address is known. Notice shall be in substantially the following form:

CAPTION
OF CASE

NOTICE OF FILING OF
AGREEMENT OR
MEMORANDUM
OF AGREEMENT

Notice is hereby given that the attached document was filed by the undersigned in the above entitled court on the day of, 19... Unless you file a petition objecting to the agreement within 30 days of the above specified date the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust.

If you file and serve a petition within the period specified, you should ask the court to fix a time and place for the hearing on the petition and provide for at least a ten days' notice to all persons interested in the estate or trust.

DATED this day of, 19...

.....
(Party to the agreement)

(5) Unless a person interested in the estate or trust files a petition objecting to the agreement within thirty days of the filing of the agreement or the memorandum, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust. If all persons interested in the estate or trust waive the notice required by this section, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust effective upon the date of filing.

Sec. 19. Section 62, chapter 149, Laws of 1984 and RCW 11.96.180 are each reenacted to read as follows:

(1) The court, upon its own motion or on request of a person interested in the trust or estate, at any stage of a judicial proceeding or at any time in a nonjudicial resolution procedure, may appoint a guardian ad litem to represent the interests of a minor, incapacitated, unborn, or unascertained person, or person whose identity and address are unknown, or a designated class of persons who are not ascertained or are not in being. When not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(2) For the purposes of this section, a trustee is a person interested in the trust and a personal representative is a person interested in an estate.

(3) The court appointed guardian ad litem supersedes the special representative if so provided in the court order.

(4) The court may appoint the guardian ad litem at an ex parte hearing, or the court may order a hearing as provided in RCW 11.96.070 with notice as provided in RCW 11.96.080, 11.96.100, and 11.96.110.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 29, 1985.

Passed the House March 27, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 32

[Senate Bill No. 3551]

EXCISE TAX STATUTES—CLARIFIED IN LIGHT OF BOND V. BURROWS

AN ACT Relating to clarifying the excise tax statutes after Bond v. Burrows, 103 Wn.2d 153 (1984); amending RCW 82.04.255, 82.04.290, and 82.04.2904; reenacting and amending RCW 82.04.2901; reenacting RCW 82.08.020; repealing RCW 82.04.2902 and 82.04.2903; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.08.020, chapter 15, Laws of 1961 as last amended by section 41, chapter 3, Laws of 1983 2nd ex. sess. and by section 62, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.08.020 are each reenacted to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) The tax imposed under this chapter shall apply to successive retail sales of the same property.

(3) The rate provided in this section applies to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

Sec. 2. Section 3, chapter 65, Laws of 1970 ex. sess. as last amended by section 1, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.255 are each amended to read as follows:

Upon every person engaging within the state as a real estate broker; as to such persons, the amount of the tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of 1.50 percent(~~(: PROVIDED, That this tax shall be imposed only if all of the amendments contained in sections 2 through 4 of this 1983 act become law)~~)).

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to

salesmen or associate brokers in the same office on a particular transaction: PROVIDED, HOWEVER, That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission: AND PROVIDED FURTHER, That where the brokerage office has paid the tax as provided herein, salesmen or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

Sec. 3. Section 82.04.290, chapter 15, Laws of 1961 as last amended by section 2, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.290 are each amended to read as follows:

Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and 82.04.280; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.50 percent (~~(PROVIDED, That this tax shall be imposed only if all of the amendments contained in sections 1, 3, and 4 of this 1983 act become law))~~). This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Sec. 4. Section 3, chapter 130, Laws of 1975-'76 2nd ex. sess. as last amended by section 4, chapter 3, Laws of 1983 2nd ex. sess. and by section 61, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.2901 are each reenacted and amended to read as follows:

~~((Until and including the thirtieth day of June, 1985;))~~ There is levied and shall be collected from every person, other than persons taxed under RCW 82.04.2904, for the act or privilege of engaging in business activities, as a part of the tax imposed by the provisions of RCW 82.04.250, an additional tax equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under the provisions of RCW 82.04.250 (~~(PROVIDED, That the additional tax under this section shall be imposed only if all of the amendments contained in sections 1 through 3 of this 1983 act become law))~~).

To facilitate collection of this additional tax, the department of revenue is authorized to adjust the basic rates of persons to which this section

applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth.

Sec. 5. Section 3, chapter 9, Laws of 1983 as amended by section 3, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.2904 are each amended to read as follows:

(1) There is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed under RCW 82.04.220 through 82.04.240, inclusive, and RCW 82.04.260 through 82.04.280, inclusive, an additional tax equal to ten percent multiplied by the tax payable under RCW 82.04.220 through 82.04.240, inclusive, and RCW 82.04.260 through 82.04.280, inclusive(~~:(PROVIDED, That this additional tax shall be imposed only if all of the amendments contained in sections 1, 2, and 4 of this 1983 act become law))~~).

(2) There is also levied and shall be collected from every person for the act or privilege of engaging in the business activity of making sales at retail which are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as a part of the tax imposed under RCW 82.04.250, an additional tax equal to ten percent multiplied by the tax payable on those activities under RCW 82.04.250(~~:(PROVIDED, That this additional tax shall be imposed only if all of the amendments contained in sections 1, 2, and 4 of this 1983 act become law))~~).

(3) To facilitate collection of these additional taxes, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 7, Laws of 1983 and RCW 82.04.2902; and
- (2) Section 5, chapter 9, Laws of 1983 and RCW 82.04.2903.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 8, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 33

[Senate Bill No. 3312]

INTERLOCAL COOPERATION ACT—PUBLIC AGENCY DEFINITION
EXPANDED

AN ACT Relating to local government; and amending RCW 39.34.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 239, Laws of 1967 as last amended by section 1, chapter 36, Laws of 1979 and RCW 39.34.020 are each amended to read as follows:

For the purposes of this chapter, the term "public agency" shall mean any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.

The term "state" shall mean a state of the United States.

Passed the Senate March 12, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 10, 1985.

Filed in Office of Secretary of State April 10, 1985.

CHAPTER 34

[Substitute Senate Bill No. 3198]

VICTIMS OF SEXUAL ASSAULT ACT—TERMINATION REPEALED—STATE-
WIDE PLAN TO BE DEVELOPED BIENNIALLY—FINANCIAL ASSISTANCE
AUTHORIZED

AN ACT Relating to victims of sexual assault; amending RCW 70.125.040; adding a new section to chapter 70.125 RCW; repealing RCW 70.125.070; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 219, Laws of 1979 ex. sess. and RCW 70.125.040 are each amended to read as follows:

The department shall establish a centralized office within the department to coordinate activities of programs relating to sexual assault and to facilitate coordination and dissemination of information to personnel in fields relating to sexual assault.

The department shall develop, with the cooperation of the criminal justice training commission, (~~the attorney general's office;~~) the medical profession, and existing rape crisis centers, a biennial state-wide plan to aid organizations which provide services to victims of sexual assault.

NEW SECTION. Sec. 2. A new section is added to chapter 70.125 RCW to read as follows:

The department may distribute financial assistance to rape crisis centers to supplement crisis, advocacy, and counseling services provided directly to victims.

NEW SECTION. Sec. 3. Section 7, chapter 219, Laws of 1979 ex. sess. and RCW 70.125.070 are each repealed.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the Senate February 20, 1985.

Passed the House April 3, 1985.

Approved by the Governor April 11, 1985.

Filed in Office of Secretary of State April 11, 1985.

CHAPTER 35

[Substitute Senate Bill No. 3240]

CHILD ABUSE—RESTRAINING ORDERS OR INJUNCTIONS

AN ACT Relating to child abuse; adding new sections to chapter 26.44 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 26.44 RCW to read as follows:

(1) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

- (a) Molesting or disturbing the peace of the alleged victim;
- (b) Entering the family home of the alleged victim except as specifically authorized by the court; or
- (c) Having any contact with the alleged victim, except as specifically authorized by the court.

(2) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

(3) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the

basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) A temporary restraining order or preliminary injunction:

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

(b) May be revoked or modified.

(5) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

(1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to section 1 of this act who refuses to comply with the provisions of such order when requested by any peace officer of the state shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section shall bear this legend: **VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CIVIL CONTEMPT PROCEEDINGS.**

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule: **PROVIDED,** That no right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest.

Passed the Senate February 20, 1985.

Passed the House April 3, 1985.

Approved by the Governor April 11, 1985.

Filed in Office of Secretary of State April 11, 1985.

CHAPTER 36

[Engrossed House Bill No. 21]

HORTICULTURE—NURSERY DEALERS—LICENSURE MODIFIED

AN ACT Relating to horticultural nursery dealers; amending RCW 15.13.250, 15.13.260, 15.13.270, 15.13.280, 15.13.470, and 15.13.490; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 33, Laws of 1971 ex. sess. as amended by section 19, chapter 182, Laws of 1982 and RCW 15.13.250 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society and association, and every officer, agent or employee thereof.

(4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, and viticultural(~~(, and olericultural)~~) plant, for planting, propagation or ornamentation growing or otherwise(~~(, including cut plant material)~~). The term does not apply to cut plant material or to olericultural plants.

(5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants (~~(and/or cut plant material)~~) are grown, stored, handled or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport such horticultural plants (~~(and/or cut plant material)~~).

(6) "Plant pests" means, but is not limited to any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants, weeds, or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(7) "Inspection and/or certification" means, but is not limited to, the inspection of any horticultural plants (~~(and/or cut plant material)~~) at any time prior to, during, or subsequent to harvest, or sale, by the director, and the issuance by him of a written certificate stating the grades, classifications, and if such horticultural plants (~~(and/or cut plant material)~~) are free of plant pests and in compliance with all the provisions of this chapter and rules adopted hereunder.

(8) "Nursery dealer" means any person who sells, holds for sale, or offers for sale, or plants, grows, receives, or handles horticultural plants (~~((and/or cut plant material))~~), including turf for sale or for planting, including lawns, for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

Sec. 2. Section 2, chapter 33, Laws of 1971 ex. sess. and RCW 15.13-.260 are each amended to read as follows:

The director shall enforce the provisions of this chapter and he may adopt any rule necessary to carry out its purpose and provisions including but not limited to the following:

(1) The director may adopt rules establishing grades and/or classifications for any horticultural plant (~~((and/or cut plant material))~~) and standards for such grades and/or classifications.

(2) The director may adopt rules for the inspection and/or certification of any horticultural plant (~~((and/or cut plant material))~~) as to variety, quality, size and freedom from plant pests.

(3) The director shall adopt rules establishing fees for inspection of horticultural plants (~~((and/or cut plant material))~~) and methods of collection thereof.

(4) The director shall when adopting rules or regulations under the provisions of this chapter, hold a public hearing and satisfy all the requirements of chapter 34.04 RCW (administrative procedure act) as enacted or hereafter amended, concerning the adoption of rules and regulations.

Sec. 3. Section 3, chapter 33, Laws of 1971 ex. sess. as amended by section 2, chapter 73, Laws of 1983 1st ex. sess. and RCW 15.13.270 are each amended to read as follows:

The provisions of this chapter relating to licensing (~~((shall))~~) do not apply to: (1) Persons making casual or isolated sales ((or for each place of business where gross sales do not exceed five hundred dollars per year, nor to)) that do not exceed one hundred dollars annually; (2) any garden club or charitable nonprofit association conducting not more than three sales per year for not more than four consecutive days each of horticultural plants as defined in RCW 15.13.250 and which are grown by or donated to its members((-PROVIDED, That)); (3) educational organizations associated with private or public secondary schools. However, such a club ((or)), association, or organization shall apply to the director for a permit to conduct such sales. A two dollar fee shall be assessed for ((such)) the permit.

All horticultural plants sold under such a permit issued by the director shall be subject to all the other provisions of this chapter except licensing as set forth herein.

Sec. 4. Section 4, chapter 33, Laws of 1971 ex. sess. as last amended by section 3, chapter 73, Laws of 1983 1st ex. sess. and RCW 15.13.280 are each amended to read as follows:

(1) No person shall act as a nursery dealer without a license for each place of business where horticultural plants are sold except as provided in RCW 15.13.270. Any person applying for such a license shall apply through the master license system. ((Such)) The application shall be accompanied by ((a license)) the following annual licensing fee ((of one hundred dollars, except there shall be no license fee for each place of business where gross sales do not exceed five hundred dollars per year. Such));

(a) Retail licenses:

(i) A twenty-five dollar license fee if gross business sales for horticultural plants and turf do not exceed two thousand five hundred dollars;

(ii) A fifty dollar license fee if such gross business sales are between two thousand five hundred dollars and fifteen thousand dollars; and

(iii) A one hundred dollar license fee if such gross business sales are fifteen thousand dollars or more;

(b) Wholesale licenses:

(i) A fifty dollar license fee if gross business sales for horticultural plants and turf are less than fifteen thousand dollars; and

(ii) A one hundred dollar license fee if such gross business sales are fifteen thousand dollars or more.

(2) Except as provided in RCW 15.13.270, a person conducting both retail and wholesale sales of horticultural plants at a place of business shall secure for the place of business (a) a retail nursery dealer license if retail sales of the plants and turf exceed such wholesale sales, or (b) a wholesale nursery dealer license if wholesale sales of the plants and turf exceed such retail sales.

(3) The licensing fee that must accompany an application for a new license shall be based upon the estimated gross business sales of horticultural plants and turf for the ensuing licensing year. The fee for renewing a license shall be based upon the licensee's gross sales of such products during the preceding licensing year.

(4) The license shall expire on the master license expiration date unless it has been revoked or suspended prior ((thereto)) to the expiration date by the director for cause. Each ((such)) license shall be posted in a conspicuous place open to the public in the location for which it was issued.

Sec. 5. Section 25, chapter 33, Laws of 1971 ex. sess. as amended by section 1, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.13.470 are each amended to read as follows:

All moneys except assessments and penalties collected under the provisions of this chapter shall be paid into the nursery inspection fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.13 RCW and remaining in such nursery inspection account in the state general fund on July 1, 1975, shall likewise be used only in the administration and enforcement of this chapter: PROVIDED, That all fees collected for fruit tree, fruit tree seedling and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW.

Sec. 6. Section 27, chapter 33, Laws of 1971 ex. sess. and RCW 15-.13.490 are each amended to read as follows:

(1) Any person violating the provisions of this chapter or rules adopted hereunder is guilty of a misdemeanor and guilty of a gross misdemeanor for any subsequent offense, however, any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) In lieu of any other penalty imposed under this section, a person who acts as a nursery dealer without the license required by RCW 15.13-.280 or the permit required by RCW 15.13.270 is subject to a civil penalty of up to two hundred dollars for each violation. The director may impose the penalty and the penalty shall be subject to appeal in accordance with chapter 34.04 RCW. Penalties collected under this subsection shall be deposited in the state general fund.

Passed the House April 5, 1985.

Passed the Senate March 29, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 37

[Engrossed House Bill No. 409]
ARCHITECTS—LICENSURE

AN ACT Relating to the practice of architecture; adding new sections to chapter 18.08 RCW; repealing RCW 18.08.100, 18.08.110, 18.08.120, 18.08.130, 18.08.140, 18.08.150, 18.08.160, 18.08.170, 18.08.180, 18.08.190, 18.08.200, 18.08.210, 18.08.220, 18.08.230, 18.08.250, 18.08.260, and 18.08.270; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that in order to safeguard life, health, and property and to promote the public welfare, it is necessary to regulate the practice of architecture.

NEW SECTION. Sec. 2. It is unlawful for any person to practice or offer to practice in this state, architecture, or to use in connection with his

or her name or otherwise assume, use, or advertise any title or description including the word "architect," "architecture," "architectural," or language tending to imply that he or she is an architect, unless the person is registered or authorized to practice in the state of Washington under this chapter. The provisions of this section shall not affect the use of the words "architect," "architecture," or "architectural" where a person does not practice or offer to practice architecture.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administration of the construction contract" means the periodic observation of materials and work to observe the general compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the work site.

(2) "Architect" means an individual who is registered under this chapter to practice architecture.

(3) "Board" means the state board of registration for architects.

(4) "Certificate of authorization" means a certificate issued by the director to a corporation or partnership that authorizes the entity to practice architecture.

(5) "Certificate of registration" means the certificate issued by the director to newly registered architects.

(6) "Department" means the department of licensing.

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

(8) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

(9) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

(10) "Practice of architecture" means the rendering of services in connection with the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction of alterations or additions to the structures, including but not specifically limited to schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

(11) "Registered" means holding a currently valid certificate of registration or certificate of authorization issued by the director authorizing the practice of architecture.

(12) "Structure" means any construction consisting of load-bearing members such as the foundation, roof, floors, walls, columns, girders, and beams or a combination of any number of these parts, with or without other parts or appurtenances.

NEW SECTION. Sec. 4. There is hereby created a state board of registration for architects consisting of seven members who shall be appointed by the governor. Six members shall be registered architects who are residents of the state and have at least eight years' experience in the practice of architecture as registered architects in responsible charge of architectural work or responsible charge of architectural teaching. One member shall be a public member, who is not and has never been a registered architect and who does not employ and is not employed by or professionally or financially associated with an architect.

The terms of each newly appointed member shall be six years. The members of the board of registration for architects serving on the effective date of this act shall serve out the remainders of their existing five-year terms. The term of the public member shall coincide with the term of an architect.

Every member of the board shall receive a certificate of appointment from the governor. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of six years or until the next successor has been appointed.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

The board shall elect a chairman, a vice-chairman, and a secretary. The secretary may delegate his or her authority to the executive secretary.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 5. (1) The board may adopt such rules under chapter 34.04 RCW as are necessary for the proper performance of its duties under this chapter.

(2) The director shall employ an executive secretary subject to approval by the board. The director shall provide such secretarial and administrative support as may be required to carry out the purposes of this chapter.

(3) The board or the director may conduct investigations concerning alleged violations of this chapter. In making such investigations and in all proceedings of the board under this chapter, the chairman or any member of the board acting in place of the chairman may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, and require the production of books, records, papers, and documents. If any person refuses to obey a subpoena so issued, or refuses to testify or produce any books, records, papers, or documents so required to be produced, the board may present its petition in the superior court of Thurston county or the county in which the person resides, setting

forth the facts, and thereupon the court shall, in a proper case, enter a suitable order compelling compliance with this chapter and imposing such other terms and conditions as the court finds equitable.

NEW SECTION. Sec. 6. (1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall:

(a) Have an accredited architectural degree and three years' practical architectural work experience approved by the board. At least two years' work experience must be under the direct supervision of an architect; or

(b) Have eight years' practical architectural work experience approved by the board. Each year spent in an accredited architectural program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect; or

(c) Be a person who has been designing buildings as a principal activity for eight years, or has an equivalent combination of education and experience, but who was not registered under chapter 323, Laws of 1959, as amended, as it existed before the effective date of this act, provided that application is made within four years after the effective date of this act. Nothing in this chapter prevents such a person from designing buildings for four years after the effective date of this act, or the five-year period allowed for completion of the examination process, after that person has applied for registration. A person who has been designing buildings and is qualified under this subsection shall, upon application to the board of registration for architects, be allowed to take the examination for architect registration on an equal basis with other applicants.

NEW SECTION. Sec. 7. (1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. If the entire examination is not successfully completed within five years, a retake of the entire examination shall be required.

NEW SECTION. Sec. 8. (1) The director shall issue a certificate of registration to any applicant who has, to the satisfaction of the board, met all the requirements for registration upon payment of the registration fee as provided in this chapter. All certificates of registration shall show the full name of the registrant, have the registration number, and shall be signed by the chairman of the board and by the director. The issuance of a certificate of registration by the director is prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered architect.

(2) Each registrant shall obtain a seal of the design authorized by the board bearing the architect's name, registration number, the legend "Registered Architect," and the name of this state. Drawings prepared by the registrant shall be sealed and signed by the registrant when filed with public authorities. It is unlawful to seal and sign a document after a registrant's certificate of registration or authorization has expired, been revoked, or is suspended.

NEW SECTION. Sec. 9. (1) The director may reinstate a certificate of registration to any person or a certificate of authorization to any corporation or joint stock association whose certificate has been revoked, if a majority of the board vote in favor of such reissuance: if the board finds that the circumstances or conditions that brought about the revocation are not likely to recur and that the person, corporation, or joint stockholders' association is then sufficiently trustworthy and reliable at the time reinstatement is sought, and that the best interests of the public will be served by reinstatement of the registration.

(2) A new certificate of registration or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued by the director. A charge, determined as provided in RCW 43.24.086, shall be made for such issuance.

NEW SECTION. Sec. 10. All persons registered as architects under chapter 205, Laws of 1919, or registered as architects under chapter 323, Laws of 1959, as amended, before the effective date of this act, shall be registered as architects without examination.

NEW SECTION. Sec. 11. The director may, upon receipt of the current registration fee, grant a certificate of registration to an applicant who is a registered architect in another state or territory of the United States, the District of Columbia, or another country, if that individual's qualifications and experience are determined by the board to be equivalent to the qualifications and experience required of a person registered under section 6 of this act.

NEW SECTION. Sec. 12. This chapter shall not affect or prevent:

(1) The practice of naval architecture, landscape architecture, engineering, space planning, interior design, or any legally recognized profession or trade by persons not registered as architects;

(2) Drafters, clerks, project managers, superintendents, and other employees of architects, engineers, naval architects, or landscape architects from acting under the instructions, control, or supervision of their employers;

(3) The construction, alteration, or supervision of construction of buildings or structures by contractors or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors from engaging persons who are not architects to observe and supervise construction of a project;

(5) Any person from doing design work including preparing construction contract documents and administration of the construction contract for the erection, enlargement, repair, or alteration of a structure or any appurtenance to a structure, if the structure is to be used for a residential building of up to and including four dwelling units or a farm building or is a structure used in connection with or auxiliary to such residential building or farm building such as a garage, barn, shed, or shelter for animals or machinery;

(6) Any person from doing design work including preparing construction contract documents and administering the contract for construction, erection, enlargement, alteration, or repairs of or to a building of any occupancy up to four thousand square feet of construction;

(7) Design-build construction by registered general contractors if the structural design services are performed by a registered engineer;

(8) Any person from designing buildings or doing other design work for any structure prior to the time of filing for a building permit; or

(9) Any person from designing buildings or doing other design work for structures larger than those exempted under subsections (5) and (6) of this section, if the plans, which may include such design work, are stamped by a registered engineer or architect.

NEW SECTION. Sec. 13. (1) An architect or architects may organize a corporation formed either as a business corporation under the provisions of Title 23A RCW or as a professional corporation under the provisions of chapter 18.100 RCW. For an architect or architects to practice architecture through a corporation or joint stock association organized by any person under Title 23A RCW, the corporation or joint stock association shall file with the board:

(a) The application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the corporation is qualified under this chapter to practice architecture in this state;

(b) Its notices of incorporation and bylaws and a certified copy of a resolution of the board of directors of the corporation that designates individuals registered under this chapter as responsible for the practice of architecture by the corporation in this state and that provides that full

authority to make all final architectural decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the individuals designated in the resolution. The filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract; and

(c) A designation in writing setting forth the name or names of the person or persons registered under this chapter who are responsible for the architecture of the firm. If there is a change in the person or persons responsible for the architecture of the firm, the changes shall be designated in writing and filed with the board within thirty days after the effective date of the changes.

(2) Upon the filing with the board of the application for certificate of authorization, the certified copy of the resolution, and the information specified in subsection (1) of this section, the board shall authorize the director to issue to the corporation a certificate of authorization to practice architecture in this state upon a determination by the board that:

(a) The bylaws of the corporation contain provisions that all architectural decisions pertaining to any project or architectural activities in this state shall be made by the specified architects responsible for the project or architectural activities, or other responsible architects under the direction or supervision of the architects responsible for the project or architectural activities;

(b) The applicant corporation has the ability to provide, through qualified personnel, professional services or creative work requiring architectural experience, and with respect to the architectural services that the corporation undertakes or offers to undertake, the personnel have the ability to apply special knowledge to the professional services or creative work such as consultation, investigation, evaluation, planning, design, and administration of the construction contract in connection with any public or private structures, buildings, equipment, processes, works, or projects;

(c) The application for certificate of authorization contains the professional records of the designated person or persons who are responsible;

(d) The application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural services during the preceding five-year period;

(e) The applicant corporation meets such other requirements related to professional competence in the furnishing of architectural services as may be established and promulgated by the board in furtherance of the purposes of this chapter; and

(f) The applicant corporation is possessed of the ability and competence to furnish architectural services in the public interest.

(3) Upon recommendation of the board, the director shall refuse to issue or may suspend or revoke a certificate of authorization to a corporation

if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of the corporation have committed an act prohibited under section 15 of this act or have been found personally responsible for misconduct under subsection (6) or (7) of this section.

(4) In the event a corporation, organized solely by a group of architects each registered under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to that corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in subsections (1) and (2) of this section. In the event the ownership of such corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners if exclusively architects, under the qualifications required by subsections (1) and (2) of this section.

(5) Any corporation authorized to practice architecture under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered architect and shall conduct their business without misconduct or malpractice in the practice of architecture as defined in this chapter.

(6) Any corporation that has been certified under this chapter and has engaged in the practice of architecture shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board finds that the corporation has committed misconduct or malpractice under section 15 of this act. In such a case, any individual architect registered under this chapter who is involved in such misconduct is also subject to disciplinary measures provided in this chapter.

(7) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direction of the designated architects and shall be signed by and stamped with the official seal of the designated architects in the corporation authorized under this chapter.

(8) For each certificate of authorization issued under this section there shall be paid a certification fee and an annual certification renewal fee as prescribed by the director under RCW 43.24.086.

(9) This chapter shall not affect the practice of architecture as a professional service corporation under chapter 18.100 RCW.

NEW SECTION. Sec. 14. (1) The renewal date for certificates of registration shall be set by the director in accordance with RCW 43.24.086. Registrants who fail to pay the renewal fee within thirty days of the due date shall pay all delinquent fees plus a penalty fee equal to one-third of the renewal fee. A registrant who fails to pay a renewal fee for a period of five years may be reinstated under such circumstances as the board determines. The renewal and penalty fees and the frequency of renewal assessment shall be authorized under this chapter. Renewal date for certificates of authorization shall be the anniversary of the date of authorization.

(2) Any registrant in good standing may withdraw from the practice of architecture by giving written notice to the director, and may within five years thereafter resume active practice upon payment of the then-current renewal fee. A registrant may be reinstated after a withdrawal of more than five years under such circumstances as the board determines.

NEW SECTION. Sec. 15. The board shall have the power to impose fines on any person practicing architecture in an amount not to exceed one thousand dollars for each offense and may reprimand a registrant and may suspend, revoke, or refuse to issue or renew a certificate of registration or authorization to practice architecture in this state upon the following grounds:

(1) Offering to pay, paying, or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;

(2) Being wilfully untruthful or deceptive in any professional report, statement, or testimony;

(3) Having conviction in any court of any offense involving moral turpitude or fraud;

(4) Having a financial interest in the bidding for or the performance of a contract to supply labor or materials for or to construct a project for which employed or retained as an architect except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding architectural work for which retained, employed, or called upon to perform;

(5) Signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed by the architect or under the architect's personal supervision by persons subject to the architect's direction and control;

(6) Aiding or abetting any person not authorized to practice architecture under this chapter;

(7) Wilfully evading or trying to evade any law, ordinance, code, or regulation governing construction of buildings; or

(8) Violating any provision of this chapter or any regulation adopted under it.

NEW SECTION. Sec. 16. (1) The board may revoke or suspend a certificate of registration or a certificate of authorization to practice architecture in this state, or otherwise discipline a registrant or person authorized to practice architecture, as provided in this chapter.

(2) Proceedings for the revocation, suspension, refusal to issue, or imposition of a monetary fine may be initiated by the board on its own motion based on the complaint of any person. A copy of the charge or charges, along with a notice of the time and place of the hearing before the board shall be served on the registrant as provided for in chapter 34.04 RCW.

(3) All procedures related to hearings on such charges shall be in accordance with rules for a contested case in chapter 34.04 RCW, the administrative procedure act.

(4) If, after such hearing, the majority of the board vote in favor of finding the registrant guilty, the board shall take such disciplinary action as it deems appropriate under this chapter.

(5) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

NEW SECTION. Sec. 17. Any person who violates any provision of this chapter or any rule promulgated under it is guilty of a misdemeanor and may also be subject to a civil penalty in an amount not to exceed one thousand dollars for each offense.

(1) It shall be the duty of all officers in the state or any political subdivision thereof to enforce this chapter. Any public officer may initiate an action before the board to enforce the provisions of this chapter.

(2) The board may apply for relief by injunction without bond to restrain a person from committing any act that is prohibited by this chapter. In such proceedings, it is not necessary to allege or prove either that an adequate remedy at law does not exist or that substantial irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable for their actions in any such proceeding or in any other proceeding instituted by the board under this chapter. The board in any proper case shall cause prosecution to be instituted in any county or counties where any violation of this chapter occurs, and shall aid the prosecution of the violator.

(3) No person practicing architecture is entitled to maintain a proceeding in any court of this state relating to services in the practice of architecture unless it is alleged and proved that the person was registered or authorized under this chapter to practice or offer to practice architecture at the time the architecture services were offered or provided.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 323, Laws of 1959 and RCW 18.08.100;

(2) Section 2, chapter 323, Laws of 1959 and RCW 18.08.110;

(3) Section 3, chapter 323, Laws of 1959, section 27, chapter 34, Laws of 1975-'76 2nd ex. sess., section 21, chapter 287, Laws of 1984 and RCW 18.08.120;

(4) Section 4, chapter 323, Laws of 1959, section 194, chapter 35, Laws of 1982 and RCW 18.08.130;

(5) Section 5, chapter 323, Laws of 1959, section 18, chapter 292, Laws of 1971 ex. sess. and RCW 18.08.140;

(6) Section 6, chapter 323, Laws of 1959, section 1, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.150;

(7) Section 7, chapter 323, Laws of 1959 and RCW 18.08.160;

- (8) Section 8, chapter 323, Laws of 1959 and RCW 18.08.170;
- (9) Section 9, chapter 323, Laws of 1959 and RCW 18.08.180;
- (10) Section 10, chapter 323, Laws of 1959, section 1, chapter 266, Laws of 1971 ex. sess., section 2, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.190;
- (11) Section 11, chapter 323, Laws of 1959 and RCW 18.08.200;
- (12) Section 12, chapter 323, Laws of 1959, section 58, chapter 81, Laws of 1971 and RCW 18.08.210;
- (13) Section 13, chapter 323, Laws of 1959, section 3, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.220;
- (14) Section 14, chapter 323, Laws of 1959 and RCW 18.08.230;
- (15) Section 16, chapter 323, Laws of 1959 and RCW 18.08.250;
- (16) Section 17, chapter 323, Laws of 1959 and RCW 18.08.260; and
- (17) Section 18, chapter 323, Laws of 1959 and RCW 18.08.270.

NEW SECTION. Sec. 19. Sections 2 through 17 of this act are each added to chapter 18.08 RCW.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 5, 1985.

Passed the Senate March 29, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 38

[Engrossed House Bill No. 601]

SELLING PRICE—ADVERTISED PRICE—CONDITIONS ON INCLUDING
SALES TAX IN ADVERTISED PRICE

AN ACT Relating to excise taxes; amending RCW 82.08.050, 82.08.010, and 82.08.120; adding a new section to chapter 82.08 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.08.050, chapter 15, Laws of 1961 as last amended by section 7, chapter 299, Laws of 1971 ex. sess. and RCW 82.08.050 are each amended to read as follows:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his own use or to

any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be guilty of a gross misdemeanor.

In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of the tax.

The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price ((and)) in any sales invoice or other instrument of sale. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the fifteenth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

A seller may advertise the price as including the tax or that the seller is paying the tax, subject to the following conditions:

(1) Unless the advertised price is one in a listed series, the words "tax included" are stated immediately following the advertised price and in print size at least half as large as the advertised price;

(2) If the advertised prices are listed in a series, the words "tax included in all prices" are placed conspicuously at the head of the list and in the same print size as the advertised prices;

(3) If a price is advertised as "tax included," the price listed on any price tag shall be shown in the same manner; and

(4) All advertised prices and the words "tax included" are stated in the same medium, be it oral or visual, and if oral, in substantially the same inflection and volume.

Sec. 3. Section 82.08.010, chapter 15, Laws of 1961 as last amended by section 2, chapter 2, Laws of 1985 and RCW 82.08.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; but shall not include the amount of cash discount actually taken by a buyer; and shall be subject to modification to the extent modification is provided for in RCW 82.08.080.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe;

(2) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal, except "seller" does not mean the state and its departments and institutions when making sales to the state and its departments and institutions;

(3) "Buyer" and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale," "business," "engaging in business,"

"cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally to the provisions of this chapter.

Sec. 4. Section 82.08.120, chapter 15, Laws of 1961 as amended by section 51, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.08.120 are each amended to read as follows:

Whoever, excepting as expressly authorized by this chapter, refunds, remits, or rebates to a buyer, either directly or indirectly and by whatever means, all or any part of the tax levied by this chapter (~~(, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the buyer by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever)~~) shall be guilty of a misdemeanor. The violation of this section by any person holding a license granted by the state or any political subdivision thereof shall be sufficient grounds for the cancellation of the license of such person upon written notification by the department of revenue to the proper officer of the department granting the license that such person has violated the provisions of this section. Before any license shall be canceled hereunder, the licensee shall be entitled to a hearing before the department granting the license under such regulations as the department may prescribe.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 5, 1985.

Passed the Senate April 3, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 39

[Substitute House Bill No. 1063]

IMPACT CENTER—RESPONSIBILITIES MODIFIED—SUNSET PROCEDURE PROVIDED

AN ACT Relating to agricultural marketing; amending section 1, chapter 57, Laws of 1984 (uncodified); amending section 2, chapter 57, Laws of 1984 (uncodified); amending section 3, chapter 57, Laws of 1984 (uncodified); amending section 6, chapter 57, Laws of 1984 (uncodified); amending section 7, chapter 57, Laws of 1984 (uncodified); adding new sections to chapter 28B.30 RCW; adding new sections to chapter 43.131 RCW; repealing section 4, chapter 57, Laws of 1984 (uncodified); repealing section 5, chapter 57, Laws of 1984 (uncodified); repealing section 8, chapter 57, Laws of 1984 (uncodified); providing an expiration date; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 57, Laws of 1984 (uncodified) is amended to read as follows:

There is created (~~(a provisional)~~) an international marketing program for agricultural commodities and trade (IMPACT) center at Washington State University(~~(, which shall terminate on June 30, 1985, and which shall be referred to in this act as "the center."))~~).

In carrying out each of its responsibilities under section 2 of this 1985 act, the primary functions of the center shall be: Providing practical solutions to marketing-related problems; and developing and disseminating information which is directly applicable to the marketing of agricultural commodities and goods from this state in foreign countries or to introducing the production of commodities and goods in this state for marketing in foreign countries.

Sec. 2. Section 2, chapter 57, Laws of 1984 (uncodified) is amended to read as follows:

The (~~(provisional)~~) IMPACT center shall:

(1) Coordinate the teaching, research, and extension expertise of the college of agriculture and home economics at Washington State University to assist in:

(a) The design and development of information and strategies to expand the long-term international markets for Washington agricultural products; and

(b) The dissemination of such information and strategies to Washington exporters, overseas users, and public and private trade organizations;

(2) Research and identify current impediments to increased exports of Washington agricultural products, and determine methods of surmounting those impediments and opportunities for exporting new agricultural products and commodities to foreign markets;

(3) Prepare curricula to present and distribute information concerning international trade in agricultural commodities and products to students, exporters, international traders, and the public; (~~(and)~~)

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in agricultural commodities in cooperation with other existing programs;

(5) Ensure that activities of the center adequately reflect the objectives for the state's agricultural market development programs established by the department of agriculture as the lead state agency for such programs under chapter 43.23 RCW;

(6) Link itself through cooperative agreements with the (~~(provisional)~~) center for international trade in forest products at the University of Washington, the state department of agriculture, the state department of commerce and economic development, Washington's agriculture businesses and associations, and other state agency data collection, processing, and dissemination efforts; and

(7) Report to the governor and legislature December 1 of each year on the IMPACT center, state agricultural commodities marketing programs, and the center's success in obtaining nonstate funding for its operation.

Sec. 3. Section 3, chapter 57, Laws of 1984 (uncodified) is amended to read as follows:

The ((provisionat)) IMPACT center shall be administered by a director appointed by the dean of the college of agriculture and home economics of Washington State University.

Sec. 4. Section 6, chapter 57, Laws of 1984 (uncodified) is amended to read as follows:

The governor, the legislature, state agencies, and the public may use the IMPACT center's trade policy research and advisory services as may be needed. The IMPACT center shall establish a schedule of fees for actual services rendered.

Sec. 5. Section 7, chapter 57, Laws of 1984 (uncodified) is amended to read as follows:

The IMPACT center shall ((seek)) aggressively solicit financial contributions and support from nonstate sources, including the agricultural industries and producer organizations and individuals, to help fund its research and education programs, and shall use previously appropriated funds of Washington State University and existing resources as much as is possible to further the center's activities.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act are each added to chapter 28B.30 RCW.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) Section 4, chapter 57, Laws of 1984 (uncodified);
- (2) Section 5, chapter 57, Laws of 1984 (uncodified); and
- (3) Section 8, chapter 57, Laws of 1984 (uncodified).

NEW SECTION. Sec. 8. A new section is added to chapter 43.131 RCW to read as follows:

The international marketing program for agricultural commodities and trade at Washington State University shall be terminated on June 30, 1990, as provided in section 9 of this 1985 act.

NEW SECTION. Sec. 9. A new section is added to chapter 43.131 RCW to read as follows:

The following acts, or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, 1991:

- (1) Section 1, chapter 57, Laws of 1984, section 1 of this 1985 act and RCW 28B.30.—;
- (2) Section 2, chapter 57, Laws of 1984, section 2 of this 1985 act and RCW 28B.30.—;

(3) Section 3, chapter 57, Laws of 1984, section 3 of this 1985 act and RCW 28B.30.—;

(4) Section 6, chapter 57, Laws of 1984, section 4 of this 1985 act and RCW 28B.30.—; and

(5) Section 7, chapter 57, Laws of 1984, section 5 of this 1985 act and RCW 28B.30.—.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the House April 5, 1985.

Passed the Senate March 29, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 40

[Substitute Senate Bill No. 3407]

UNEMPLOYMENT COMPENSATION—TRAINING PROGRAMS— PARTICIPATION CONDITIONS

AN ACT Relating to the approval of training by the commissioner of employment security; amending RCW 50.20.043; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 3, Laws of 1971 as amended by section 2, chapter 181, Laws of 1984 and RCW 50.20.043 are each amended to read as follows:

No otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the commissioner, nor shall such individual be denied benefits with respect to any week in which the individual is satisfactorily progressing in a training program with the approval of the commissioner by reason of the application of RCW 50.20.010(3), 50.20.015, 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or ~~((RCW 50.20.080 relating to))~~ failure to apply for(;) or refusal to accept suitable work.

An individual who the commissioner determines to be a dislocated worker as defined by RCW 50.04.075 ~~((is eligible for benefits with respect to any week in which the individual))~~ and who is satisfactorily progressing in a training program approved by the commissioner shall be considered to be in training with the approval of the commissioner.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this

state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate February 14, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 41

[Senate Bill No. 3408]

UNEMPLOYMENT COMPENSATION—EMPLOYER DEFINITION MODIFIED

AN ACT Relating to the definition of employer for unemployment insurance purposes; amending RCW 50.04.080; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9, chapter 35, Laws of 1945 as last amended by section 5, chapter 3, Laws of 1971 and RCW 50.04.080 are each amended to read as follows:

"Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title.

~~((Irrespective of any other inconsistent provisions of this title, any employing unit shall also be deemed to be an employer for the purposes of this title to the same extent that services performed for such employing unit constitute subject employment under the provisions of any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.~~

~~Irrespective of any provision in this title to the contrary any employing unit which employs individuals whose employment must be covered by the~~

~~unemployment insurance laws of this state for services performed subsequent to December 31, 1971 as a condition of approval of the unemployment insurance laws of this state under section 3304(a) of the internal revenue code of 1954, as amended, will be considered an employer as to such individual and shall be subject to contributions on all wages paid subsequent to December 31, 1971, or reimbursement payments to cover benefits paid based on services performed subsequent to December 31, 1971, depending on the law applicable:))~~

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 7, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 42

[Senate Bill No. 3409]

UNEMPLOYMENT COMPENSATION—EXPERIENCE RATING ACCOUNTS

AN ACT Relating to experience rating accounts and noncharging; amending RCW 50.29.020; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 2, Laws of 1970 ex. sess. as last amended by section 7, chapter 205, Laws of 1984 and RCW 50.29.020 are each amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except ~~((those employers whose employees are covered under chapter 50.44 RCW))~~ employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers (~~(whose employees are not covered under chapter 50.44 RCW)~~) except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12-.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

(d) Benefits paid which represent the state's share of benefits payable under chapter 50.22 RCW shall not be charged to the experience rating account of any contribution paying employer.

(e) (~~(Benefits paid to a claimant who requalifies for benefits under RCW 50.20.050 or 50.20.060 shall not be charged to the experience rating account of the contribution paying employer with whom the disqualifying separation took place.))~~)

In the case of individuals who requalify for benefits under RCW 50-.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(f) Benefits paid to an individual as the result of a determination by the commissioner that no stoppage of work exists, pursuant to RCW 50.20-.090, shall not be charged to the experience rating account of any contribution paying employer.

(g) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as

defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

(h) Beginning July 1, 1985, a contribution-paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if:

(i) The benefit charges result from payment to an individual who last left the employ of such employer voluntarily for reasons not attributable to the employer, or was discharged for misconduct connected with his or her work; and

(ii) The employer requests relief of charges in writing within thirty days following mailing to the last known address of the notification of the initial determination of such a claim, stating the date and reason for the last leaving; and

(iii) Upon investigation of the separation, the commissioner rules that the relief should be granted.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 8, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 43

[Senate Bill No. 3406]

SHARED WORK COMPENSATION PROGRAMS—APPROVAL CONDITIONS
MODIFIED

AN ACT Relating to the approval of a shared work compensation plan; amending RCW 50.60.030; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 207, Laws of 1983 and RCW 50.60.030 are each amended to read as follows:

An employer or employers' association wishing to participate in a shared work compensation program shall submit a written and signed shared work compensation plan to the commissioner for approval. The commissioner shall approve a shared work compensation plan only if the following criteria are met:

- (1) The plan identifies the affected units to which it applies;
- (2) An employee in an affected unit are identified by name, social security number, and by any other information required by the commissioner;
- (3) The usual weekly hours of work for an employee in an affected unit are reduced by not less than ten percent and not more than fifty percent;
- (4) Fringe benefits will continue to be provided on the same basis as before the reduction in work hours. In no event shall the level of health benefits be reduced due to a reduction in hours;
- (5) The plan certifies that the aggregate reduction in work hours is in lieu of temporary layoffs which would have affected at least ten percent of the employees in the affected units to which the plan applies and which would have resulted in an equivalent reduction in work hours;
- (6) ~~((During the previous four months the work force in the affected unit has not been reduced by temporary layoffs of workers of more than ten percent;~~
- ~~(7))~~ The plan applies to at least ten percent of the employees in the affected unit;
- ~~((8))~~ (7) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any employee in the affected unit;
- ~~((9))~~ (8) The plan will not subsidize seasonal employers during the off season nor subsidize employers who have traditionally used part-time employees; and
- ~~((10))~~ (9) The employer agrees to furnish reports necessary for the proper administration of the plan and to permit access by the commissioner to all records necessary to verify the plan before approval and after approval to evaluate the application of the plan.

In addition to subsections (1) through ~~((10))~~ (9) of this section, the commissioner shall take into account any other factors which may be pertinent.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 5, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 44

[Senate Bill No. 3070]

COUNTY AUDITOR DUTIES RE PUBLIC RECORDS AND FILINGS MODIFIED—
FEES INCREASED—NOTARIES PUBLIC APPROVED SEALS MODIFIED—
FILING OF REAL PROPERTY RECORDS MODIFIED

AN ACT Relating to public records and filings; amending RCW 36.18.010, 36.18.110, 36.18.120, 42.28.030, 42.28.035, 42.28.060, 42.28.070, 42.28.090, 60.04.070, 60.12.070, 60.12.190, 61.16.020, 65.04.020, 65.04.030, 65.04.040, 65.04.060, 73.04.120, and 65.04.080; adding a new section to chapter 26.04 RCW; and repealing RCW 36.18.100, 36.18.150, and 65.04.100.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 26.04 RCW to read as follows:

The county auditor may preserve copies of marriage license applications submitted and marriage licenses issued under this chapter in the same manner as authorized for the recording of instruments under RCW 65.04.040.

Sec. 2. Section 36.18.010, chapter 4, Laws of 1963 as last amended by section 4, chapter 261, Laws of 1984 and RCW 36.18.010 are each amended to read as follows:

County auditors shall collect the following fees for their official services: ~~((For filing each chattel mortgage, renewal affidavit, or conditional sale contract, and entering same as required by law, two dollars, for each assignment, modification, transfer, correction, or release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars;~~

~~For filing a release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars. PROVIDED, That said fee shall be paid at the time of filing the chattel mortgage, conditional sale contract, or miscellaneous instrument, and no charge shall be made when the release of any of the above instruments is filed;))~~

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), ~~((three))~~ five dollars; for each additional legal size page, one dollar; ~~((for indexing each name over two, fifty cents;~~

~~For marginal release of mortgage or lien, one dollar;))~~

For preparing and certifying copies, for the first legal size page, ~~((two))~~ three dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, ~~((fifty cents))~~ one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund, which five-dollar fee shall expire June 30, 1988, plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund which five-dollar fee shall expire June 30, 1987;

For searching records per hour, ~~((four))~~ eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

~~((For filing of miscellaneous records, not listed above, three dollars;~~

~~For making marginal notations on original recording when blanket assignment or release of instrument is filed for record, each notation, fifty cents;))~~

For recording of miscellaneous records, not listed above, for first legal size page, ~~((three))~~ five dollars; for each additional legal size page, one dollar.

Sec. 3. Section 36.18.110, chapter 4, Laws of 1963 as amended by section 3, chapter 128, Laws of 1984 and RCW 36.18.110 are each amended to read as follows:

Every salaried county and precinct officer authorized to receive fees shall on or before the first Monday of each month and at the end of his or her term of office submit to the county auditor a statement (~~and copy of his or her fee book~~) for the month last past (~~duly verified as provided in RCW 36.18.150~~).

Sec. 4. Section 36.18.120, chapter 4, Laws of 1963 as amended by section 4, chapter 128, Laws of 1984 and RCW 36.18.120 are each amended to read as follows:

The county auditor shall check the statements submitted to the county auditor (~~with the fee book~~) and the records pertaining thereto, and if they are found to be correct, shall return them after having attached thereto the official certificates.

Sec. 5. Section 3, page 473, Laws of 1890 as last amended by section 1, chapter 314, Laws of 1981 and RCW 42.28.030 are each amended to read as follows:

Before a commission shall issue to the person appointed he shall—
(1) execute a bond, payable to the state of Washington, in the sum of ten thousand dollars, with sureties to be approved by the county clerk of the county in which the applicant resides, conditioned for the faithful discharge of the duties of his office; (2) pay into the state treasury the sum of ten dollars for the state general fund, taking the treasurer's receipt therefor; (3) procure a (~~seal or~~) stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington", and date of expiration of his commission, with surname in full, and at least the initials of his Christian name; (4) to take and subscribe the oath of office required of state officers; (5) file the said oath of office, bond and treasurer's receipt in the office of the secretary of state, and before performing any official acts, shall file in the office of the secretary of state a clear impression of his official (~~seal or~~) stamp, which (~~seal or~~) stamp shall be approved by the governor: PROVIDED, That (~~if a~~) the stamp (~~is used~~) shall meet the following requirements (~~shall apply~~):

- (1) The type shall be a minimum of 8 point type.
- (2) The stamp shall be two inches minimal in diameter.
- (3) The imprint shall be affixed with indelible ink only.
- (4) The face of any notary stamp shall contain permanently affixed letters and numerals and shall not be preprinted.

Sec. 6. Section 5, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.035 are each amended to read as follows:

(1) Notaries who were commissioned before the effective date of this 1985 act may use the notary seals approved for their use before that date

whenever in this chapter or in any other provision of law the use of a notary stamp is designated.

(2) Notwithstanding any other provision of law, any requirement that a notary public affix his seal or his official seal shall be fully satisfied if such notary uses instead a ((rubber)) notary stamp which complies with the requirements of RCW 42.28.030 as now or hereafter amended.

Sec. 7. Section 5, page 474, Laws of 1890 as amended by section 2, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.060 are each amended to read as follows:

It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of his official ((seal-or)) stamp, but in all other cases when the notary public shall sign any instrument officially, he shall, in addition to his name and the words "Notary Public", add his place of residence and affix his official ((seal-or)) stamp.

Sec. 8. Section 6, page 474, Laws of 1890 as amended by section 3, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.070 are each amended to read as follows:

Every notary public is required to keep a true record of all notices of protest given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to whom the same were given or sent, with the copy of the instrument in relation to which the notice is served, and of the notice itself; said record, or a copy thereof, duly certified under the hand and ((seal-or)) stamp of the notary public, or county clerk having the custody of the original record, shall be competent evidence to prove the facts therein stated, but the same may be contradicted by other competent evidence.

Sec. 9. Section 1, chapter 56, Laws of 1907 as last amended by section 1, chapter 214, Laws of 1983 and RCW 42.28.090 are each amended to read as follows:

Notaries public may make but not exceed the following charges for their services:

Protest of a bill of exchange or promissory note, three dollars;

Attesting any instrument of writing with or without ((seal-or)) stamp, three dollars;

Taking acknowledgment, two persons, with ((seal-or)) stamp, three dollars;

Taking acknowledgment, each person over two, two dollars;

Certifying affidavit, with or without ((seal-or)) stamp, three dollars;

Registering protest of bill of exchange or promissory note for nonacceptance or nonpayment, two dollars;

Being present at demand, tender, or deposit, and noting the same, besides mileage at the rate of twenty-five cents per mile, two dollars;

Noting a bill of exchange or promissory note, for nonacceptance or nonpayment, two dollars.

All public officers who are paid a salary in lieu of fees shall collect the prescribed fees for the use of the state or county as the case may be.

Sec. 10. Section 6, chapter 24, Laws of 1893 as amended by section 2, chapter 217, Laws of 1949 and RCW 60.04.070 are each amended to read as follows:

The county auditor must record the claims and notices mentioned in this chapter in a book to be kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which the auditor shall receive the same fees as are required by law for recording and indexing deeds and other conveyances.

Sec. 11. Section 6, chapter 256, Laws of 1927 as amended by section 2, chapter 32, Laws of 1933 and RCW 60.12.070 are each amended to read as follows:

Every such instrument shall be filed in the office of the county auditor who shall index ~~((the same in a book kept for that purpose as chattel mortgages))~~ them in the same manner as deeds and other conveyances are required by law to be indexed, and for which he shall receive the same fees as are required by law for ~~((filing))~~ recording and indexing ~~((chattel mortgages))~~ deeds and other conveyances.

Sec. 12. Section 3, chapter 336, Laws of 1955 and RCW 60.12.190 are each amended to read as follows:

A person claiming a seed lien shall, within sixty days after delivering the seed to the owner purchasing the seed, or his agent, ~~((file))~~ record in the manner required for ~~((filing chattel mortgages))~~ recording deeds and other conveyances a claim of lien subscribed and verified by the claimant or someone on his behalf, to the effect that affiant believes the claim to be just. Such ~~((filing))~~ recording shall be with the county auditor of the county in which the real property is situated and the crop is to be grown or is growing. The county auditor shall ~~((file))~~ record and index the claims of lien on the crop in ~~((a book kept for that purpose))~~ the same manner and for the same fee as required for ~~((chattel mortgages))~~ recording and indexing deeds and other conveyances.

Sec. 13. Section 1, page 116, Laws of 1886 as amended by section 1, chapter 52, Laws of 1901 and RCW 61.16.020 are each amended to read as follows:

Whenever the amount due on any mortgage is paid, the mortgagee, his legal representatives or assigns, shall, at the request of any person interested in the property mortgaged, ~~((acknowledge satisfaction of the same on the margin of the page upon which the mortgage is recorded (which marginal satisfaction shall be at the time attested by the auditor or his deputy), or by executing))~~ execute an instrument in writing referring to the mortgage by

the volume and page of the record or otherwise sufficiently describing it and acknowledging satisfaction in full thereof. Said instrument shall be duly acknowledged, and upon request shall be recorded in the county wherein the mortgaged property is situated. Every instrument of writing heretofore recorded and purporting to be a satisfaction of mortgage, which sufficiently describes the mortgage which it purports to satisfy so that the same may be readily identified, and which has been duly acknowledged before an officer authorized by law to take acknowledgments or oaths, is hereby declared legal and valid, and a certified copy of the record thereof is hereby constituted prima facie evidence of such satisfaction.

Sec. 14. Section 2726, Code of 1881 as amended by section 10, chapter 119, Laws of 1893 and RCW 65.04.020 are each amended to read as follows:

For the purpose of recording deeds and other instruments of writing, required or permitted by law to be recorded, the county auditor shall procure such books for records as the business of the office requires. ~~((He has the custody of and must keep at all times in his office all books, records, maps and papers deposited with him as such officer.))~~

Sec. 15. Section 1, page 26, Laws of 1865 as last amended by section 1, chapter 98, Laws of 1967 and RCW 65.04.030 are each amended to read as follows:

He must, upon the payment of his fees as required in RCW 36.18.010 for the same, acknowledge receipt therefor in writing or printed form and record in large and well bound books, or by photographic or photomechanical process, the following:

(1) Deeds, grants and transfers of real property, mortgages and releases of mortgages of real estate, instruments or agreements relating to community or separate property, powers of attorney to convey real estate, and leases which have been acknowledged or proved: PROVIDED, That deeds, contracts and mortgages of real estate described by lot and block and addition or plat, shall not be filed or recorded until the plat of such addition has been filed and made a matter of record;

(2) Patents to lands and receivers' receipts, whether for mineral, timber, homestead or preemption claims or cash entries;

(3) All such other papers or writing as are required by law to be recorded and such as are required by law to be filed.

~~((He may also, upon the payment of his fees for the same, record or file such other documents or papers as may be requested by the person offering the same for recording or filing.))~~

Sec. 16. Section 1, chapter 125, Laws of 1919 as last amended by section 2, chapter 98, Laws of 1967 and RCW 65.04.040 are each amended to read as follows:

Any state, county, or municipal officer charged with the duty of recording instruments in public records, may, in lieu of transcription, record them by receiving number in the order filed, irrespective of the type of instrument, using a photographic or photomechanical process, which produces a clear, legible, and durable record and which has been tested and approved for the intended purpose by the state archivist.

In addition, the county auditor, in the exercise of his duty of recording instruments in public records, may, in lieu of transcription, record all instruments, which he is charged by law to record, except plats, by any photographic, photostatic, microfilm, microcard, miniature photographic or other process which actually reproduces or forms a durable medium for so reproducing the original, and which has been tested and approved for the intended purpose by the state archivist. If the county auditor, in lieu of transcription, records any instrument by a process herein enumerated which produces a miniature copy of the original it shall not be necessary thereafter to make any notations or marginal notes, which are otherwise required by law, thereon: PROVIDED, That in lieu of making said notations thereon, the auditor shall immediately make a note of such in both the direct and inverted indexes and other appropriate indexes, in the column headed "remarks", opposite the appropriate entry.

Previously recorded instruments may be processed and preserved by any means authorized under this section for the original recording of instruments. The county auditor may provide in his office for the use of the public books containing reproductions of instruments and other materials that have been recorded pursuant to the provisions of this section. The contents of such books may be arranged according to date of filing, irrespective of type of instrument, or in such other manner as the county auditor in his discretion shall deem proper.

Sec. 17. Section 25, page 315, Laws of 1869 as amended by section 2729, Code of 1881 and RCW 65.04.060 are each amended to read as follows:

Whenever any mortgage, bond, lien, or instrument incumbering real estate, has been satisfied, released or discharged, (~~whether by written release across the record or upon the margin thereof, or~~) by the recording of an instrument of release, or acknowledgment of satisfaction, the auditor shall immediately note in both the indices, in the column headed remarks, opposite to the appropriate entry, that such instrument, lien or incumbrance has been satisfied. And in all cases of the satisfaction or release of any recorded liens, mortgage, transcript of judgment, mechanic's liens, (~~registered taxes~~) or other incumbrance whatsoever, the auditor shall (~~enter with red ink across the record of the instrument creating or evidencing such lien or incumbrance, the word "satisfied", with the day of the date of such satisfaction or release, and~~) note the same in index of transcripts of judgment.

Sec. 18. Section 19, page 313, Laws of 1869 as last amended by section 1, chapter 187, Laws of 1927 and RCW 65.04.080 are each amended to read as follows:

When any instrument, paper, or notice, authorized or required by law to be filed or recorded, is deposited in the county auditor's office for filing or record, that officer must indorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, and must file, or file and record the same without delay, together with the acknowledgments, proofs, and certificates written or printed upon or annexed to the same, with the plats, surveys, schedules and other papers thereto annexed, in the order and as of the time when the same was received for filing or record, and must note on the instrument filed, or at the foot of the record the exact time of its reception, and the name of the person at whose request it was filed or filed and recorded: PROVIDED, That the county auditor shall not be required to accept for filing, or filing and recording, any instrument unless there appear upon the face thereof, (~~or be indorsed upon the back or cover thereof;~~) the name and nature of the instrument offered for filing, or filing and recording, as the case may be.

Sec. 19. Section 1, chapter 16, Laws of 1949 as last amended by section 1, chapter 84, Laws of 1984 and RCW 73.04.120 are each amended to read as follows:

County clerks and county auditors, respectively, are authorized and directed to furnish free of charge to the legal representative, surviving spouse, child or parent of any deceased veteran certified copies of marriage certificates, decrees of divorce or annulment, or other documents contained in their files and to record and issue, free of charge, certified copies of such documents from other states, territories, or foreign countries affecting the marital status of such veteran whenever any such document shall be required in connection with any claim pending before the United States veterans' bureau or other governmental agency administering benefits to war veterans. Where these same documents are required of service personnel of the armed forces of the United States for determining entitlement to family allowances and other benefits, they shall be provided without charge by county clerks and county auditors upon request of the person in the service or his dependents.

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

- (1) Section 36.18.100, chapter 4, Laws of 1963 and RCW 36.18.100;
 - (2) Section 36.18.150, chapter 4, Laws of 1963 and RCW 36.18.150;
- and

(3) Section 2733, Code of 1881 and RCW 65.04.100.

Passed the Senate April 5, 1985.

Passed the House April 1, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 45

[Engrossed Senate Bill No. 3096]

VACANCIES IN FEDERAL OFFICES

AN ACT Relating to vacancy elections for federal offices; amending RCW 29.13.047, 29.68.070, 29.68.080, 29.68.100, 29.68.120, and 29.68.130; creating a new section; and repealing RCW 29.68.090, and 29.68.110.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intention of the legislature that sections 2 through 7 of this act shall provide an orderly and predictable election procedure for filling vacancies in the offices of United States representative and United States senator.

Sec. 2. Section 2, chapter 4, Laws of 1973 as last amended by section 4, chapter 144, Laws of 1977 ex. sess. and RCW 29.13.047 are each amended to read as follows:

(1) Whenever state officers or measures are voted upon at a state primary or general election held in an odd-numbered year (~~as provided for in~~) under RCW 29.13.010, the state of Washington shall assume ((its)) a prorated share of ((such election)) the costs of that state primary or general election.

(2) Whenever a primary or vacancy election is held to fill a vacancy in the position of United States senator or United States representative under chapter 29.68 RCW, the state of Washington shall assume a prorated share of the costs of that primary or vacancy election.

(3) The county auditor shall apportion the state's share of ((such)) these expenses when prorating election costs ((as provided)) under RCW ((29.04.020 and)) 29.13.045 and shall file such expense claims with the secretary of state.

(4) The secretary of state shall include in his or her biennial budget requests ~~((a provision for))~~ sufficient funds to carry out ~~((the provisions of))~~ this section. ~~((Payments hereunder))~~ Reimbursements for election costs shall be from appropriations specifically provided by law for ((such)) that purpose ((by law)).

Sec. 3. Section 29.68.070, chapter 9, Laws of 1965 and RCW 29.68-.070 are each amended to read as follows:

When a vacancy ~~((happens))~~ occurs in the representation of this state in the senate of the United States, the governor shall make a temporary

appointment to that office until the people fill the vacancy by election ((at the next ensuing general state election)) as provided in this chapter.

Sec. 4. Section 29.68.080, chapter 9, Laws of 1965 as amended by section 3, chapter 36, Laws of 1973 2nd ex. sess. and RCW 29.68.080 are each amended to read as follows:

(1) Whenever ~~((there is))~~ a vacancy ~~((existing by death, resignation, disability or failure to qualify or impending vacancy))~~ occurs in the office of United States representative ~~((in the congress of the United States))~~ or United States senator from this state or any congressional district ~~((in))~~ of this state, the governor shall order a special election to fill the vacancy.

(2) Within ten days of such vacancy occurring, he or she shall ~~((fix as the))~~ issue a writ of election fixing a date for the special vacancy election ~~((a day))~~ not less than ninety days after the issuance of the writ ~~((He shall fix as the))~~, fixing a date for the primary for nominating candidates for the special vacancy election ~~((a day))~~ not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs ~~((between or on a date))~~ less than six months ~~((prior to))~~ before a state general ~~((state))~~ election and before the second Friday following the close of the filing period for that general election, the special primary and special ~~((general))~~ vacancy elections shall be held in concert with the ~~((regular))~~ state primary and ~~((regular))~~ state general election ~~((s))~~ in that year.

(4) If the vacancy occurs on or after the first day for filing ~~((specified in))~~ under RCW 29.18.030 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the ~~((secretary of state))~~ governor and notice thereof given ~~((by notifying))~~ to all media, including press, radio, and television within the ~~((congressional district concerned))~~ area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period ~~((PROVIDED, HOWEVER, That))~~. The last day of ~~((such))~~ the filing period shall not be ~~((no))~~ later than the third Tuesday ~~((prior to))~~ before the primary ~~((election concerned. Such))~~ at which candidates are to be nominated. The names of candidates who have filed valid declarations of candidacy ~~((validly filed within said))~~ during this three-day period shall appear on the approaching primary ballot ~~((as if made during the earlier filing period)).~~

(5) If the vacancy ~~((should))~~ occurs later than the second Friday following the close of the filing period, a special primary and special ~~((general))~~ vacancy election to fill ~~((such vacancy))~~ the position shall be held after the ~~((regular annual))~~ next state general election but, in any event, no later than the ninetieth day following the ~~((said))~~ November election.

(6) As used in this chapter, "county" means, in the case of a vacancy in the office of United States senator, any or all of the counties in the state and, in the case of a vacancy in the office of United States representative, only those counties wholly or partly within the congressional district in which the vacancy has occurred.

Sec. 5. Section 29.68.100, chapter 9, Laws of 1965 as amended by section 5, chapter 36, Laws of 1973 2nd ex. sess. and RCW 29.68.100 are each amended to read as follows:

~~((Upon))~~ After calling a special primary and special vacancy election to fill a vacancy ((or impending vacancy)) in the office of United States representative ((in the congress of the United States)) or United States senator from this state, the governor shall immediately notify the secretary of state who shall, in turn, immediately notify ((each)) the county auditor of each county wholly or partly within ((the district in)) which the vacancy exists ((or is about to exist)).

Each county auditor ~~((in the district))~~ shall publish notices of the special primary and ~~((of))~~ the special vacancy election at least once in any legal newspaper published in the county, as provided by RCW 29.27.030 and 29.27.080 respectively.

Sec. 6. Section 29.68.120, chapter 9, Laws of 1965 as last amended by section 46, chapter 3, Laws of 1983 and RCW 29.68.120 are each amended to read as follows:

(1) The canvass of the votes cast at a special primary ((held in relation to a special election)) for a United States ((congressman)) representative or senator shall be ((made)) completed in each county ((within the district)) within ten days after the primary ((and)). The returns ((sent)) shall be transmitted immediately to the secretary of state, who shall certify ((said)) the returns in the ((same)) manner ((as)) provided by RCW 29.62.100 ((and)). As soon as possible ((thereafter)) after the canvass, the secretary of state shall certify the names of the ((successful)) nominees to the county auditors ((of the counties within the district)).

(2) The canvass of the votes cast at a special vacancy election for a United States representative or senator shall be completed in each county within fifteen days after the vacancy election. The returns shall be transmitted immediately to the secretary of state, who shall certify the returns in the manner provided in RCW 29.62.120.

Sec. 7. Section 29.68.130, chapter 9, Laws of 1965 and RCW 29.68.130 are each amended to read as follows:

The general election laws and laws relating to partisan primaries shall apply to the special primaries and vacancy elections provided for in RCW 29.68.080 through 29.68.120 ~~((in so far as))~~ to the extent that they are not inconsistent ~~((therewith, and shall be construed with and as a part thereof~~

for the purpose of carrying out the spirit and intent thereof)) with the provisions of these sections. Statutory time deadlines relating to availability of absentee ballots, certification, canvassing, and related procedures that cannot be met in a timely fashion may be modified for the purposes of a specific primary or vacancy election under this chapter by the secretary of state through emergency rules adopted under RCW 29.04.080.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) Section 29.68.090, chapter 9, Laws of 1965, section 4, chapter 36, Laws of 1973 2nd ex. sess. and RCW 29.68.090; and

(2) Section 29.68.110, chapter 9, Laws of 1965, section 6, chapter 36, Laws of 1973 2nd ex. sess. and RCW 29.68.110.

Passed the Senate April 5, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

CHAPTER 46

[Engrossed Senate Bill No. 3538]

SCHOOL DISTRICTS—CLASSIFIED EMPLOYEES' TRANSFER RIGHTS

AN ACT Relating to school employees' transfer rights; and amending RCW 28A.58.099.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 275, Laws of 1983 and RCW 28A.58.099 are each amended to read as follows:

Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.58.096 and 28A.21.360;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when he returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position: PROVIDED, That classified employees who transfer between districts after the effective date of this 1985 act shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the

school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

Passed the Senate March 12, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 47

[Substitute Senate Bill No. 3162]

MUSICIANS OR ENTERTAINERS—UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment insurance for contract employees; adding a new section to chapter 50.04 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 50.04 RCW to read as follows:

(1) The term "employment" shall not include services performed by a musician or entertainer under a written contract with a purchaser of the services for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. The contract shall designate the leader of the music or entertainment group. A music or entertainment business or a leader of a music or entertainment group shall be considered an employer and not a purchaser of music or entertainment services.

(2) Any musician or entertainer who performs for a music or entertainment business or as a member of a music or entertainment group is deemed an employee of the business or group and the business or the leader of the group shall be required to register as an employer with the department.

(3) Purchasers of services under subsection (1) of this section shall not be subject to RCW 50.24.130 relating to a principal's liability for unpaid contributions if the services are purchased from a business or group registered as an employer with the department.

(4) The term "music or entertainment business" or "group" as used in this section means an employer whose principal business activity is music or entertainment. The term does not include those entities who provide music or entertainment for members or patrons incidental to their principal business activity, and does not include an individual employing musicians or entertainers on a casual basis.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect July 1, 1985.

Passed the Senate March 12, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 48

[Senate Bill No. 3081]

DEPARTMENT OF LABOR AND INDUSTRIES—RECIPROCAL AGREEMENTS WITH OTHER STATES

AN ACT Relating to reciprocal agreements; and adding a new section to chapter 49.48 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 49.48 RCW to read as follows:

(1) The director of labor and industries, or the director's designee, may enter into reciprocal agreements with the labor department or corresponding agency of any other state or with the person, board, officer, or commission authorized to act on behalf of such department or agency, for the collection in such other states of claims or judgments for wages and other demands based upon claims assigned to the director.

(2) The director, or the director's designee, may, to the extent provided for by any reciprocal agreement entered into by law or with an agency of another state as herein provided, maintain actions in the courts of such other state for the collection of claims for wages, judgments, and other demands and may assign such claims, judgments, and demands to the labor department or agency of such other state for collection to the extent that such an assignment may be permitted or provided for by the law of such state or reciprocal agreement.

(3) The director, or the director's designee, may, upon the written consent of the labor department or corresponding agency of any other state or of the person, board, officer, or commission of such state authorized to act on behalf of such labor department or corresponding agency, maintain actions in the courts of Washington upon assigned claims for wages, judgments, and demands arising in such other state in the same manner and to the same extent that such actions by the director are authorized when arising in Washington. Such actions may be maintained only in cases where

such other state by law or reciprocal agreement extends a like comity to cases arising in Washington.

Passed the Senate February 18, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 49

[Senate Bill No. 3547]

SCHOOL IMMUNIZATION

AN ACT Relating to school immunization programs; amending RCW 28A.31.104, 28A.31.102, and 28A.31.114; adding new sections to chapter 28A.31 RCW; repealing RCW 28A.31.108; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.104 are each amended to read as follows:

The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation (~~((within forty-five days of))~~) before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.31.106. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

Sec. 2. Section 2, chapter 118, Laws of 1979 ex. sess. as amended by section 4, chapter 40, Laws of 1984 and RCW 28A.31.102 are each amended to read as follows:

As used in RCW 28A.31.100 through 28A.31.120:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.31.100 through 28A.31.120 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260, each as now or hereafter amended.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

Sec. 3. Section 8, chapter 118, Laws of 1979 ex. sess. as amended by section 8, chapter 40, Laws of 1984 and RCW 28A.31.114 are each amended to read as follows:

~~((Upon notification by the local health department;))~~ It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.31.104 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child ~~((from a)),~~ each school or day care center ~~((each local health department))~~ shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.31.104. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.31.100 through 28A.31.120; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.31.104 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.31.118 and/or 28A.31.120, as appropriate; and (4) the immunization services that are

available from or through the local health department and other public agencies.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.31 RCW to read as follows:

The superintendent of public instruction shall provide for information about the immunization program and requirements under RCW 28A.31.100 through 28A.31.120 to be widely available throughout the state in order to promote full use of the program.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.31 RCW to read as follows:

The superintendent of public instruction by rule shall provide procedures for schools to quickly verify the immunization records of students transferring from one school to another before the immunization records are received.

NEW SECTION. Sec. 6. Section 5, chapter 118, Laws of 1979 ex. sess., section 6, chapter 40, Laws of 1984 and RCW 28A.31.108 are each repealed.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 9, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 50

[Substitute Senate Bill No. 4229]

JUVENILES IN ADULT HOLDING FACILITIES—CONDITIONS

AN ACT Relating to juveniles; adding a new section to chapter 13.04 RCW; and repealing RCW 13.04.115.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 13.04 RCW to read as follows:

(1) A juvenile shall not be confined in a jail or holding facility for adults, except:

(a) For a period not exceeding twenty-four hours excluding weekends and holidays and only for the purpose of an initial court appearance in a county where no juvenile detention facility is available, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates; or

(b) For not more than six hours and pursuant to a lawful detention in the course of an investigation, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates.

(2) For purposes of this section a juvenile is an individual under the chronological age of eighteen years who has not been transferred previously to adult courts.

(3) The corrections standards board, in exercise of the powers of the state jail commission, shall monitor and enforce compliance with this section.

(4) This section shall not be construed to expand or limit the authority to lawfully detain juveniles.

NEW SECTION. Sec. 2. Section 11, chapter 160, Laws of 1913 and RCW 13.04.115 are each repealed.

Passed the Senate March 12, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 51

[Substitute Senate Bill No. 3175]

SHELLFISH—COMMERCIAL QUANTITIES DEFINED—GROWERS AND PROCESSORS—CERTIFICATES OF APPROVAL—VIOLATIONS AND PENALTIES MODIFIED

AN ACT Relating to shellfish; amending RCW 69.30.010, 69.30.050, 69.30.060, 69.30.110, 69.30.120, 69.30.140, and 75.12.120; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 144, Laws of 1955 as amended by section 70, chapter 141, Laws of 1979 and RCW 69.30.010 are each amended to read as follows:

When used in this chapter, the following terms shall have the following meanings:

(1) "Shellfish" means all varieties of fresh and frozen oysters, mussels, and clams, either shucked or in the shell, and any fresh or frozen edible products thereof.

(2) "Sale" means to sell, offer for sale, barter, trade, deliver, consign, hold for sale, consignment, barter, trade, or delivery, and/or possess with intent to sell or dispose of in any commercial manner.

(3) "Shellfish growing areas" means the lands and waters in and upon which shellfish are grown for harvesting in commercial quantity or for sale for human consumption.

(4) "Establishment" means the buildings together with the necessary equipment and appurtenances used for the storage, culling, shucking, packing and/or shipping of shellfish in commercial quantity or for sale for human consumption.

(5) "Person" means any individual, partnership, firm, company, corporation and/or association.

(6) "Department" means the state department of social and health services.

(7) "Secretary" means the secretary of social and health services or his or her authorized representatives.

(8) "Commercial quantity" means any quantity exceeding: (a) Forty pounds of mussels; (b) one hundred oysters; (c) fourteen horseclams; (d) six geoducks; or (e) fifty pounds of hard or soft shell clams.

Sec. 2. Section 5, chapter 144, Laws of 1955 and RCW 69.30.050 are each amended to read as follows:

Shellfish growing areas, from which shellfish are removed in a commercial quantity or for sale for human consumption shall be in a safe and sanitary condition, meeting the requirements of the state board of health; and such shellfish growing areas shall be so certified by the department. Any person desiring to remove shellfish in a commercial quantity or for sale for human consumption from a growing area in the state of Washington shall first apply to the department for a certificate of approval of the growing area. The department shall cause the shellfish growing area to be inspected and if the area meets the sanitary requirements of the state board of health, the department shall issue a certificate of approval for that area. Such certificates shall be issued for a period not to exceed twelve months and may be revoked at any time the area is found not to be in compliance with the sanitary requirements of the state board of health.

Sec. 3. Section 6, chapter 144, Laws of 1955 and RCW 69.30.060 are each amended to read as follows:

No person shall cull, shuck, or pack shellfish in the state of Washington in a commercial quantity or for sale for human consumption unless the establishment in which such operations are conducted has been certified by the department as meeting the requirements of the state board of health. Any person desiring to cull, shuck, or pack shellfish within the state of Washington in a commercial quantity or for sale for human consumption, shall apply to the department for a certificate of approval for the establishment in which such operations will be done. The department shall cause such establishment to be inspected, and if the establishment meets the sanitary requirements of the state board of health, the department shall issue a certificate of approval. Such certificates of approval shall be issued for a period not to exceed twelve months, and may be revoked at any time the establishment or the operations are found not to be in compliance with the sanitary requirements of the state board of health.

Sec. 4. Section 11, chapter 144, Laws of 1955 as amended by section 74, chapter 141, Laws of 1979 and RCW 69.30.110 are each amended to read as follows:

~~((Any))~~ It is unlawful to possess a commercial quantity of shellfish or to sell or offer to sell for human consumption shellfish ((sold or offered for sale)) in the state(;) which have not been grown, shucked, packed, or shipped in accordance with the provisions of this chapter((; shall upon order of the secretary be immediately withdrawn from sale, use, or consumption. In the event of failure or refusal to comply with said order, the secretary may apply to the superior court of the county wherein the shellfish were found for an order directing that the person having control of said shellfish withdraw said shellfish from sale, use, or consumption, in compliance with the order of the secretary)). Failure of a shellfish grower to display immediately a certificate of approval issued under RCW 69.30.050 to an authorized representative of the department, a fisheries patrol officer, or an ex officio fisheries patrol officer subjects the grower to the penalty provisions of this chapter, as well as immediate seizure of the shellfish by the representative or officer.

Failure of a shellfish processor to display a certificate of approval issued under RCW 69.30.060 to an authorized representative of the department, a fisheries patrol officer, or an ex officio fisheries patrol officer subjects the processor to the penalty provisions of this chapter, as well as immediate seizure of the shellfish by the representative or officer.

Shellfish seized under this section shall be subject to prompt disposal by the representative or officer and may not be used for human consumption. The state board of health shall develop by rule procedures for the disposal of the seized shellfish.

Sec. 5. Section 12, chapter 144, Laws of 1955 and RCW 69.30.120 are each amended to read as follows:

The department may enter and inspect ~~((at reasonable times))~~ any shellfish growing area or establishment ~~((and))~~ for the purposes of determining compliance with this chapter. The department may inspect all certificates of approval and all shellfish, and take for inspection such samples of shellfish as may reasonably be necessary to carry out the provisions of this chapter. For purposes of this chapter, fisheries patrol officers or ex officio fisheries patrol officers are limited to entry, inspection, and destruction of shellfish to achieve compliance with RCW 69.30.110 and to taking for inspection samples of shellfish as may reasonably be necessary to carry out this chapter.

Sec. 6. Section 14, chapter 144, Laws of 1955 and RCW 69 30.140 are each amended to read as follows:

Any person found violating any of the provisions of this chapter shall be guilty of a gross misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one (~~hundred~~) thousand dollars, or imprisonment (~~(not to exceed ninety)~~) in the county jail of the county in which the offense was committed for not less than thirty days nor more than one year, or to both fine and imprisonment. (~~Upon the violation of any of the provisions of this chapter, written notification shall be sent by the department to the person found in violation. Each day's operation thereafter in violation shall constitute a separate offense and shall be subject to the prescribed penalties.~~) A conviction is an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this chapter, regardless of whether imposition of sentence is deferred or the penalty is suspended, and shall be treated as a violation conviction for purposes of license forfeiture under RCW 75.10.120.

Sec. 7. Section 75.12.120, chapter 12, Laws of 1955 as amended by section 57, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.12.120 are each amended to read as follows:

It is unlawful to waste or destroy food fish or shellfish wantonly, except for disposals authorized by RCW 69.30.110.

A processor shall not purchase or engage a quantity of food fish or shellfish that cannot be processed within sixty hours after the food fish or shellfish are taken from the water, unless the food fish or shellfish are preserved in good marketable condition.

Passed the Senate March 22, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 52

[Senate Bill No. 3148]

SPECIAL ADULT SUPERVISION PROGRAMS—STATUTES REPEALED

AN ACT Relating to special adult supervision programs; repealing RCW 9.95A.010, 9.95A.020, 9.95A.030, 9.95A.040, 9.95A.050, 9.95A.060, 9.95A.070, 9.95A.080, 9.95A.090, 9.95A.900, and 9.95A.905.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.010;

(2) Section 2, chapter 123, Laws of 1973 1st ex. sess., section 51, chapter 136, Laws of 1981 and RCW 9.95A.020;

(3) Section 3, chapter 123, Laws of 1973 1st ex. sess., section 52, chapter 136, Laws of 1981 and RCW 9.95A.030;

(4) Section 4, chapter 123, Laws of 1973 1st ex. sess., section 53, chapter 136, Laws of 1981 and RCW 9.95A.040;

(5) Section 5, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.050;

(6) Section 6, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.060;

(7) Section 7, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.070;

(8) Section 8, chapter 123, Laws of 1973 1st ex. sess., section 54, chapter 136, Laws of 1981 and RCW 9.95A.080;

(9) Section 9, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.090;

(10) Section 11, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.900; and

(11) Section 33, chapter 137, Laws of 1981 and RCW 9.95A.905.

Passed the Senate March 14, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 53

[Senate Bill No. 3363]

INCEST—SEXUAL INTERCOURSE DEFINED

AN ACT Relating to incest; and amending RCW 9A.64.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9A.64.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 129, Laws of 1982 and RCW 9A.64.020 are each amended to read as follows:

(1) A person is guilty of incest in the first degree if he engages in sexual intercourse with a person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(2) A person is guilty of incest in the second degree if he engages in sexual contact with a person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(3) As used in this section, "descendant" includes stepchildren and adopted children under eighteen years of age.

(4) As used in this section, "sexual contact" has the same meaning as in RCW 9A.44.100(2).

(5) As used in this section, "sexual intercourse" has the same meaning as in RCW 9A.44.010(1).

(6) Incest in the first degree is a class B felony.

~~((6))~~ (7) Incest in the second degree is a class C felony.

Passed the Senate February 20, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 54

[Substitute Senate Bill No. 3989]

INSURANCE—LUMPECTOMIES, MASTECTOMIES, RECONSTRUCTIVE SURGERIES

AN ACT Relating to insurance; amending RCW 48.20.395, 48.21.230, 48.44.330, and 48.46.280; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

No person engaged in the business of insurance under this chapter may refuse to issue any contract of insurance or cancel or decline to renew the contract solely because of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously. The amount of benefits payable, or any term, rate, condition, or type of coverage shall not be restricted, modified, excluded, increased, or reduced solely on the basis of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously.

NEW SECTION. Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

No person engaged in the business of insurance under this chapter may refuse to issue any contract of insurance or cancel or decline to renew the contract solely because of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously. The amount of benefits payable, or any term, rate, condition, or type of coverage shall not be restricted, modified, excluded, increased, or reduced solely on the basis of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously.

NEW SECTION. Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

No health care service contractor under this chapter may refuse to issue any contract or cancel or decline to renew the contract solely because of

a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously. The amount of benefits payable, or any term, rate, condition, or type of coverage shall not be restricted, modified, excluded, increased, or reduced solely on the basis of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously.

NEW SECTION. Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

No health maintenance organization under this chapter may refuse coverage or cancel or decline coverage solely because of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously. The amount of benefits payable, or any term, rate, condition, or type of coverage shall not be restricted, modified, excluded, increased, or reduced solely on the basis of a mastectomy or lumpectomy performed on the insured or prospective insured more than five years previously.

Sec. 5. Section 1, chapter 113, Laws of 1983 and RCW 48.20.395 are each amended to read as follows:

(1) Any disability insurance contract providing hospital and medical expenses and health care services delivered or issued in this state after July 24, 1983, shall provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from disease, illness, or injury.

(2) Any disability insurance contract providing hospital and medical expenses and health care services delivered or issued in this state after the effective date of this act shall provide coverage for all stages of one reconstructive breast reduction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

Sec. 6. Section 2, chapter 113, Laws of 1983 and RCW 48.21.230 are each amended to read as follows:

(1) Each group disability insurance contract issued or renewed after July 24, 1983, which insures for hospital or medical care shall provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from disease, illness, or injury.

(2) Each group disability insurance contract issued or renewed after the effective date of this act which insures for hospital or medical care shall provide coverage for all stages of one reconstructive breast reduction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

Sec. 7. Section 3, chapter 113, Laws of 1983 and RCW 48.44.330 are each amended to read as follows:

(1) Each contract for health care entered into or renewed after July 24, 1983, between a health care services contractor and the person or persons to receive the care shall provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from disease, illness, or injury.

(2) Each contract for health care entered into or renewed after the effective date of this act between a health care services contractor and the person or persons to receive the care shall provide coverage for all stages of one reconstructive breast reduction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

Sec. 8. Section 4, chapter 113, Laws of 1983 and RCW 48.46.280 are each amended to read as follows:

(1) Any health care service plan issued, amended, or renewed after July 24, 1983, shall provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from disease, illness, or injury.

(2) Any health care service plan issued, amended, or renewed after the effective date of this act shall provide coverage for all stages of one reconstructive breast reduction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

NEW SECTION: Sec. 9. This act shall take effect January 1, 1986.

Passed the Senate March 18, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 55

[Substitute Senate Bill No. 4138]

INSURANCE HOLDING COMPANY ACQUISITIONS

AN ACT Relating to insurance holding company systems; amending RCW 48.31A.020 and 48.31A.050; adding a new section to chapter 48.31A RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 13, Laws of 1971 ex. sess. as amended by section 2, chapter 46, Laws of 1983 and RCW 48.31A.020 are each amended to read as follows:

No person other than the issuer or an affiliate of the issuer shall exchange securities for or otherwise acquire, any voting security or any security convertible into a voting security of a domestic insurer or of any other person controlling a domestic insurer if, as a result of the consummation thereof, that person would directly or indirectly, acquire actual control of the insurer unless:

(1) Such person has filed with the commissioner a statement containing such of the following information, and such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders:

(a) The background and identity of all persons by whom or on whose behalf the purchases or the exchange, merger, or other acquisition of control are to be effected;

(b) The source and amount of the funds or other consideration used or to be used in making the purchases or in effecting the exchange, merger or other acquisition of control, and, if any part of such funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the purchases or effecting the exchange, merger, or other acquisition of control, a description of the transaction and the names of the parties thereto;

(c) Any plans or proposals which such persons may have to liquidate such insurer, to sell its assets or merge it with any person, or to make any other major change in its business or corporate structure or management;

(d) The amount of each class of voting securities, or securities which may be converted into voting securities, of such insurer or such controlling person, which are beneficially owned, and the amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person concerning which there is a right to acquire beneficial ownership, by each such person and by each such affiliate;

(e) Information as to any contracts, arrangements or understandings with any person with respect to any securities of such insurer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements or understandings have been entered into, and giving the details thereof; and

(f) A copy of any such agreement, and any amendments thereto, to exchange or otherwise acquire securities or to merge with or otherwise to acquire control of such insurer;

(2) ~~((The time for disapproval, as provided in RCW 48.31A.050, including any agreed extensions, has elapsed or approval has been given by the commissioner))~~ The exchange or acquisition has been approved by the commissioner in the manner prescribed by RCW 43.31A.050.

Sec. 2. Section 7, chapter 13, Laws of 1971 ex. sess. as amended by section 4, chapter 46, Laws of 1983 and RCW 48.31A.050 are each amended to read as follows:

(1) ~~((In the absence of approval by the commissioner the purchases, exchanges, mergers or other acquisitions of control referred to in RCW 48.31A.020 may be made unless the commissioner, within twenty days after~~

~~the statement required by RCW 48.31A.020 has been filed with him, disapproves the purchases, exchanges, mergers or other acquisitions of control. The commissioner may disapprove any such transaction within twenty days after such filing if he finds that))~~ The commissioner shall approve any exchange or other acquisition of control referred to in RCW 48.31A.020 within sixty days of the receipt of the statement filed pursuant to RCW 48.31A.020 after holding a public hearing, only upon finding that:

(a) After the change of control the domestic insurer would ~~((not))~~ satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance of its last certificate of authority to do the insurance business which it intends to transact in this state;

(b) The effect of the purchases, exchanges, mergers, or other acquisitions of control ~~((may))~~ would not be substantially to lessen competition in insurance in this state or tend to create a monopoly therein ~~((or may))~~ and would not violate the laws of this state relating to monopolies or restraint of trade;

(c) The financial condition of an acquiring person is such as would not jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(d) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are not unfair or prejudicial to policyholders;

(e) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would ~~((not))~~ be in the interest of policyholders and the public to permit them to do so; ~~((or))~~ and

(f) There has ~~((not))~~ been full compliance with this chapter or other applicable provisions of Title 48 RCW by the acquiring person.

(2) The provisions of RCW 48.31A.020 through 48.31A.050 apply to any change of control except to the extent that the commissioner, by rule or regulation or by order, shall exempt the same from the provisions of such sections as not comprehended within the purpose of those sections.

NEW SECTION. Sec. 3. A new section is added to chapter 48.31A RCW to read as follows:

All reasonable costs of any hearing held pursuant to RCW 48.31A.050, as determined by the commissioner, including costs associated with the commissioner's use of investigatory, professional, and other necessary personnel, mailing of required notices and other information, and use of equipment or facilities, shall be paid before issuance of the commissioner's order by the person filing the statement required by RCW 48.31A.020.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 11, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 56

[Substitute Senate Bill No. 3361]

SAVINGS BANKS

AN ACT Relating to savings banks; amending RCW 32.04.020, 32.04.030, 32.08.142, 32.08.225, 32.12.020, 32.12.050, 32.16.010, 32.16.040, 32.16.050, 32.20.090, 32.20.220, 32.20.330, 32.24.030, 32.24.080, 32.32.025, 32.32.040, 32.32.115, 32.32.120, 32.32.150, 32.32.210, 32.32.215, 32.32.220, 32.32.230, 32.32.265, 32.32.490, 32.32.495, 32.32.500, and 32.32.505; adding a new section to chapter 32.08 RCW; adding new sections to chapter 32.32 RCW; adding new sections to chapter 32.34 RCW; repealing RCW 32.20.140, 32.20.150, 32.20.170, 32.20.180, and 32.20.190; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 32.04.020, chapter 13, Laws of 1955 as amended by section 106, chapter 85, Laws of 1981 and RCW 32.04.020 are each amended to read as follows:

The use of the term "savings bank" in this title refers to mutual savings banks and converted mutual savings banks only.

The use of the words "mutual savings" as part of a name under which business of any kind is or may be transacted by any person, firm, or corporation, except such as were organized and in actual operation on June 9, 1915, or as may be thereafter organized and operated under the requirements of this title is hereby prohibited.

The use of the term "supervisor" in this title refers to the supervisor of banking.

The use of the word "branch" in this title refers to an established manned place of business or manned mobile facility or other manned facility of a savings bank, other than the principal office, at which deposits may be taken.

Sec. 2. Section 32.04.030, chapter 13, Laws of 1955 as amended by section 1, chapter 80, Laws of 1955 and RCW 32.04.030 are each amended to read as follows:

~~((+)) A savings bank ((shall not do business or be located in the same room with, or in a room connecting with, any other bank, or a trust company that receives deposits of money or commercial paper, or a national banking association:~~

~~(2) No savings bank, or any officer or director thereof, shall receive deposits or transact any of its usual business at any place other than its principal place of business or an authorized branch:~~

~~(3) A savings bank, with the approval of the supervisor, may establish and operate branches but only upon the conditions and subject to the limitations following:~~

~~(a) If its guaranty fund is not less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a bank:~~

~~(b) Branches may be established in any county of the state; and~~

~~(c) A branch shall not be established at a place at which the supervisor would not permit a proposed new savings bank to engage in business, by reason of any consideration contemplated by RCW 32.08.040, 32.08.050 and 32.08.060, the provisions of which, insofar as applicable, including those relating to appeals, shall extend to applications to establish branches)), with the written approval of the supervisor, may establish and operate branches in any place within the state.~~

A savings bank desiring to establish a branch shall file a written application therefor with the supervisor, who shall approve or disapprove the application.

The supervisor's approval shall be conditioned on a finding that the resources in the market area of the proposed location offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate purposes under this title. A branch shall not be established or permitted if the capital of the savings bank, including paid-in surplus, guaranty fund, and undivided profits, is less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a commercial bank. If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the supervisor shall transmit to the supervisor a check in an amount established by rule to cover the expense of the investigation. A savings bank shall not move any branch more than two miles from its existing location without prior approval of the supervisor. Not less than twenty days prior to the date on which it opens any office at which it will transact business, a mutual savings bank shall give written notice to the supervisor of the location and business hours of this office. No such notice shall become effective until it has been delivered to the office of the supervisor.

The board of trustees of a savings bank, after notice to the supervisor, may discontinue the operation of a branch. The savings bank shall keep the supervisor informed in the matter and shall notify the supervisor of the date operation of the branch is discontinued.

Sec. 3. Section 10, chapter 86, Laws of 1981 and RCW 32.08.142 are each amended to read as follows:

Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a mutual savings bank has under the laws of this state, a mutual savings bank shall have the powers and authorities of federal mutual savings banks formed under the provisions of 12 U.S.C. Sec. 1464.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federal mutual savings banks shall apply to mutual savings banks exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted mutual savings banks solely under this section.

NEW SECTION. Sec. 4. A new section is added to chapter 32.08 RCW to read as follows:

No mutual savings bank or wholly owned subsidiary thereof shall act as trustee for common trust funds established for the benefit of more than one beneficiary under more than one trust agreement, unless the savings bank or subsidiary trust company shall first give written notice to the supervisor, at least sixty days prior to the creation of any such fund.

Sec. 5. Section 12, chapter 86, Laws of 1981 and RCW 32.08.225 are each amended to read as follows:

Any mutual savings bank may through any device sell, purchase, exchange, issue evidence of a sale or exchange of, or in any manner deal in any form of sale or exchange of interest rate exchange agreements, loans, or any interest therein including but not being limited to mortgage passthrough issues, mortgage backed bond issues, and loan participations and may purchase a subordinated portion thereof, issue letters of credit to insure against losses on a portion thereof, agree to repurchase all or a portion thereof, guarantee all or a portion of the payments thereof, and without any implied limitation by the foregoing or otherwise, do any and all things necessary or convenient to take part in or effectuate any ~~((loan))~~ such sales or exchanges by a mutual savings bank itself or by a subsidiary thereof.

Sec. 6. Section 32.12.020, chapter 13, Laws of 1955 as last amended by section 53, chapter 3, Laws of 1983 and RCW 32.12.020 are each amended to read as follows:

The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand in such manner, and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section and chapter 30.22 RCW. Such regulations shall be posted in a conspicuous place in the room where the business of such savings bank shall be transacted, and shall be available

to depositors upon request. All such rules and regulations, and all amendments thereto, from time to time in effect, shall be binding upon all depositors.

(1) Such bank may at any time by a resolution of its board of trustees require a notice of not more than six months before repaying deposits, in which event no deposit shall be due or payable until the required notice of intention to withdraw the same shall have been personally given by the depositor: **PROVIDED**, That such bank at its option may pay any deposit or deposits before the expiration of such notice. But no bank shall agree with its depositors or any of them in advance to waive the requirement of notice as herein provided: PROVIDED, That the bank may create a special class of depositors who shall be entitled to receive their deposits upon demand.

(2) Except as provided in subdivisions (3), (4), and (5) of this section the savings bank shall not pay any dividend, or interest, or deposit, or portion thereof, or any check drawn upon it by a depositor unless the certificate of deposit is produced or bears a legend stating it may be paid without production, or the passbook of the depositor is produced and the proper entry is made therein, at the time of the payment.

(3) The board of trustees of any such bank may by its bylaws provide for making payments in cases of loss of passbook or certificate of deposit, or other exceptional cases where the passbooks or certificates of deposit cannot be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the supervisor upon his being satisfied that such right is being improperly exercised by any such bank; but payments may be made at any time upon the judgment or order of a court.

(4) The board of trustees of any such bank may by its bylaws provide for making payments to depositors at their request, of dividends or interest payable on any deposit, without requiring the production of the passbook or certificate of deposit of the depositor, and any payment made in accordance with any such request and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such request prior to receipt by such savings bank of notice in writing not to pay such sums in accordance with the terms of such request.

(5) The issuance of a passbook or certificate of deposit may be omitted for any account if ~~((a ledger))~~ an adequate record thereof is maintained, in lieu of a passbook or certificate of deposit, on which shall be entered deposits, withdrawals, and interest credited: **PROVIDED**, That in any event a passbook ~~((or certificate of deposit))~~ shall be issued upon the request of any passbook account depositor.

Sec. 7. Section 32.12.050, chapter 13, Laws of 1955 as amended by section 1, chapter 44, Laws of 1983 and RCW 32.12.050 are each amended to read as follows:

(1) No savings bank shall by any system of accounting, or any device of bookkeeping, directly or indirectly, enter any of its assets upon its books in the name of any other individual, partnership, unincorporated association, or corporation, or under any title or designation that is not in accordance with the actual facts.

(2) The bonds, notes, mortgages, or other interest bearing obligations purchased or acquired by a savings bank, shall not be entered on its books at more than the actual cost thereof, and shall not thereafter be carried upon its books for a longer period than until the next declaration of dividends, or in any event for more than one year, at a valuation exceeding their present cost as determined by amortization, that is, by deducting from the cost of any such security purchased for a sum in excess of the amount payable thereon at maturity and charging to "profit and loss" a sufficient sum to bring it to par at maturity, or adding to the cost of any such security purchased at less than the amount payable thereon at maturity and crediting to "profit and loss" a sufficient sum to bring it to par at maturity.

(3) No such bank shall enter, or at any time carry on its books, the real estate and the building or buildings thereon used by it as its place of business at a valuation exceeding their actual cost to the bank.

(4) Every such bank shall conform its methods of keeping its books and records to such orders in respect thereof as shall have been made and promulgated by the supervisor. Any officer, agent, or employee of any savings bank who refuses or neglects to obey any such order shall be punished as hereinafter provided.

(5) Real estate acquired by a savings bank, other than that acquired for use as a place of business, may be entered on the books of the bank at the actual cost thereof but shall not be carried beyond the current dividend period at an amount in excess of the amount of the debt in protection of which such real estate was acquired, plus the cost of any improvements thereto.

An appraisal (~~made by two or more persons appointed by the board of trustees,~~) shall be made by a qualified person of every such parcel of real estate within six months from the date of conveyance (~~and also within six months from date when any expenditure to improve such real estate is added to the book value~~). If the value at which such real estate is carried on the books is in excess of the value found on appraisal the book value shall, at the end of the dividend period during which such appraisal was made, be reduced to an amount not in excess of such appraised value.

(6) No such bank shall enter or carry on its books any asset which has been disallowed by the supervisor or the trustees of such bank, or any debt owing to it which has remained due without prosecution and upon which no interest has been paid for more than one year, or on which a judgment has been recovered which has remained unsatisfied for more than two years,

unless the supervisor upon application by such savings bank has fixed a valuation at which such debt may be carried as an asset, or unless such debt is secured by first mortgage upon real estate, in which latter case it may be carried at the actual cash value of such real estate as determined by written appraisal signed by two or more persons appointed by the board of trustees and filed with it.

(7) Notwithstanding the prohibitions of this section, a savings bank may maintain its books and records and may enter and carry on its books any asset or liability at any valuation in accordance with any accounting rules promulgated or adopted by the federal deposit insurance corporation or the financial accounting standards board or the supervisor of banking.

Sec. 8. Section 32.16.010, chapter 13, Laws of 1955 and RCW 32.16.010 are each amended to read as follows:

(1) There shall be a board of trustees who shall have the entire management and control of the affairs of the savings bank. The persons named in the certificate of authorization shall be the first trustees. The board shall consist of not less than nine nor more than thirty members.

(2) A person shall not be a trustee of a savings bank, if he

(a) Is not a resident of ~~((this))~~ a state of the United States;

(b) Has been adjudicated a bankrupt or has taken the benefit of any insolvency law, or has made a general assignment for the benefit of creditors;

(c) Has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsecured on appeal for a period of more than three months;

(d) Is a trustee, officer, clerk, or other employee of any other savings bank.

(3) Nor shall a person be a trustee of a savings bank solely by reason of his holding public office.

Sec. 9. Section 32.16.040, chapter 13, Laws of 1955 as amended by section 4, chapter 55, Laws of 1969 and RCW 32.16.040 are each amended to read as follows:

(1) A quorum at any regular or special or adjourned meeting of the board of trustees shall consist of not less than five of whom the ~~((president))~~ chief executive officer shall be one, except when he is prevented from attending by sickness or other unavoidable detention, when he may be represented in forming a quorum by ~~((the first vice president, or in case of his absence for like cause, by the second vice president))~~ such other officer as the board may designate; but less than a quorum shall have power to adjourn from time to time until the next regular meeting. However, a savings bank may adopt procedures which provide that, in the event of a national emergency, any trustee may act on behalf of the board to continue the operations of the savings bank. For purposes of this subsection, a national emergency is an emergency declared by the president of the United States

or the person performing the president's functions, or a war, or natural disaster.

Regular meetings of the board of trustees shall be held ~~((at least once a month))~~ as established from time to time by the board, not less than nine times during each year.

(2) The board of trustees shall by resolution duly recorded in the minutes, designate an officer or officers whose duty it shall be to prepare and submit to the trustees at each regular meeting of the board, or to an executive committee of not less than five members of such board, a written statement of the purchases and sales of securities, and of loans, made since the last regular meeting of the board. The statement shall be in such form as the board from time to time shall determine and there may be omitted from the statement such purchases and sales of securities and such loans as determined by the board.

Sec. 10. Section 32.16.050, chapter 13, Laws of 1955 as amended by section 6, chapter 80, Laws of 1957 and RCW 32.16.050 are each amended to read as follows:

(1) A trustee of a savings bank shall not directly or indirectly receive any pay or emolument for services as trustee, except as provided in this section.

(2) A trustee may receive, by affirmative vote of a majority of all the trustees, reasonable compensation for (a) attendance at meetings of the board of trustees; (b) service as an officer of the savings bank, provided his duties as officer require and receive his regular and faithful attendance at the savings bank; (c) service in appraising real property for the savings bank; and (d) service as a member of a committee of the board of trustees: PROVIDED, That a trustee receiving compensation for service as an officer pursuant to (b) shall not receive any additional compensation for service under (a), (c) or (d).

(3) An attorney for a savings bank, although he is a trustee thereof, may receive a reasonable compensation for his professional services, including examinations and certificates of title to real property on which mortgage loans are made by the savings bank; or if the bank requires the borrowers to pay all expenses of searches, examinations, and certificates of title, including the drawing, perfecting, and recording of papers, such attorney may collect of the borrower and retain for his own use the usual fees for such services, excepting any commissions as broker or on account of placing or accepting such mortgage loans.

(4) All incentive compensation, bonus, or supplemental compensation plans for officers and employees of a savings bank shall be approved by a majority of nonofficer trustees of the savings bank. No such plan shall permit any officer or employee of a savings bank who has or exercises final authority with regard to any loan or investment to receive any commission on such loan or investment.

(5) If an officer or attorney of a savings bank receives, on any loan made by the bank, any commission which he is not authorized by this section to retain for his own use, he shall immediately pay the same over to the savings bank.

Sec. 11. Section 32.20.090, chapter 13, Laws of 1955 and RCW 32-.20.090 are each amended to read as follows:

~~A mutual savings bank may invest ((its funds in the bonds of any county, incorporated city, or the school district of any such city, situated in the United States: PROVIDED, That such county, city, or school district has a population as shown by the federal census next preceding the investment, of not less than forty-five thousand inhabitants, and has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount, and at the time of the investment the indebtedness of such county does not exceed seven percent of the valuation of such county for the purposes of taxation, or the indebtedness of such city or school district, together with the indebtedness of any district (other than local improvement district) or other municipal corporation or subdivision, except a county, which is wholly or in part included within the bounds or limits of said city or school district, less its water debt and sinking fund, does not exceed twelve percent of the valuation of such city or school district for purposes of taxation: OR PROVIDED, That such county, city, or school district has a population as shown by the last decennial federal census of not less than one hundred fifty thousand inhabitants, and has taxable real property with an assessed valuation in excess of two hundred million dollars, and has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount)) in housing or industrial development bonds or municipal obligations issued by a state, county, parish, borough, city, or district situated in the United States, or by any instrumentality thereof, provided such bonds or obligations at the time of purchase are prudent investments.~~

Sec. 12. Section 32.20.220, chapter 13, Laws of 1955 and RCW 32-.20.220 are each amended to read as follows:

A mutual savings bank may invest not to exceed twenty percent of its funds in ((bankers' acceptances and bills of exchange of the kind and character)) the following:

(1) Bankers' acceptances, and bills of exchange made eligible by law for rediscount with federal reserve banks, provided the same are accepted by a bank or trust company which is a member of the federal reserve system and which has a capital and surplus of not less than two million dollars, or commercial paper which is a prudent investment.

(2) Bills of exchange drawn by the seller on the purchaser of goods and accepted by such purchaser, of the kind made eligible by law for rediscount with federal reserve banks, provided the same are indorsed by a bank or

trust company which is a member of the federal reserve system and which has a capital and surplus of not less than two million dollars.

The aggregate amount of the liability of any bank or trust company to any mutual savings bank, whether as principal or indorser, for acceptances held by such savings bank and deposits made with it, shall not exceed twenty-five percent of the paid up capital and surplus of such bank or trust company, and not more than five percent of the funds of any mutual savings bank shall be invested in the acceptances of or deposited with a bank or trust company of which a trustee of such mutual savings bank is a director.

Sec. 13. Section 6, chapter 80, Laws of 1955 as last amended by section 7, chapter 31, Laws of 1973 1st ex. sess. and RCW 32.20.330 are each amended to read as follows:

A mutual savings bank may invest (~~((not to exceed fifteen percent of its funds in such))~~) in preferred stock, or in discounted or other interest bearing obligations issued, guaranteed or assumed by corporations commonly accepted as industrial corporations or engaged in communications, transportation, furnishing utility or telephone services, manufacturing, mining, merchandising, banking, or commercial financing, incorporated under the laws of the United States, or any state thereof, or the District of Columbia, or the Dominion of Canada, or any province thereof, ((as mature within thirty years from the time of the investment;)) subject to the following conditions:

(1) Not more than two percent of said bank's funds shall be invested in (~~((such obligations))~~) securities of any one such corporation, pursuant to this section (~~((or otherwise))~~).

(2) Such (~~((obligations at the time of purchase are rated among the three highest classifications of one or more nationally recognized investment rating services))~~) securities shall be prudent investments.

(3) Pursuant to this section, the total amount a savings bank may invest shall not exceed fifty percent of its funds, and not more than fifteen percent of the bank's funds may be invested in such securities of any industry.

Sec. 14. Section 32.24.030, chapter 13, Laws of 1955 and RCW 32.24.030 are each amended to read as follows:

~~((A))~~ An unconverted mutual savings bank may for the purpose of consolidation, acquisition, pooling of assets, merger, or voluntary liquidation ((transfer)) arrange for its assets and liabilities to become assets and liabilities of another mutual savings bank, by the affirmative vote or with the written consent of two-thirds of the whole number of its trustees, but only with the written consent of the supervisor and upon such terms and conditions as he may prescribe.

Upon any such transfer being made, or upon the liquidation of any such mutual savings bank for any cause whatever, or upon its being no longer engaged in the business of a mutual savings bank, the supervisor

shall terminate its certificate of authority, which shall not thereafter be revived or renewed. When the certificate of authority of any such corporation has been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done, the supervisor shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note the fact upon his records.

In case of the consolidation with or voluntary liquidation of a mutual savings bank by another mutual savings bank, as herein provided, any sums advanced by its incorporators, or others, to create or maintain its guaranty fund or its expense fund shall not be liabilities of such mutual savings bank unless the mutual savings bank, so assuming its liabilities shall specifically undertake to pay the same, or a stated portion thereof.

Sec. 15. Section 32.24.080, chapter 13, Laws of 1955 and RCW 32.24.080 are each amended to read as follows:

Every transfer of its property or assets by any mutual savings bank in this state, made (~~in contemplation of insolvency, or~~) (1) after it has become insolvent, (2) within ninety days before the date the supervisor takes possession of such savings bank under RCW 32.24.050 or the federal deposit insurance corporation is appointed as receiver or liquidator of such savings bank under RCW 32.24.090, and (3) with the view to the preference of one creditor over another(;) or to prevent equal distribution of its property and assets among its creditors, shall be void. Every trustee, officer, or employee making any such transfer shall be guilty of a felony.

Sec. 16. Section 4, chapter 85, Laws of 1981 and RCW 32.32.025 are each amended to read as follows:

As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) Except as provided in RCW 32.32.230, an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) An "applicant" is a mutual savings bank which has applied to convert pursuant to this chapter.

(4) The term "associate", when used to indicate a relationship with any person, means (a) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (b) any trust or other estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (c) any

relative who would be a "class A beneficiary" under RCW 83.08.005 if the person were a decedent.

(5) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(6) The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, ~~((or))~~ any similar certificate evidencing nonwithdrawable capital, or preferred stock, of a savings bank converted under this chapter or of a subsidiary institution or holding company.

(7) The term "charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

(8) Except as provided in RCW 32.32.230, the term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(9) The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(10) The term "director" means any director of a corporation, any trustee of a mutual savings bank, or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(11) The term "eligibility record date" means the record date for determining eligible account holders of a converting mutual savings bank.

(12) The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with RCW 32.32.180.

(13) The term "employee" does not include a director or officer.

(14) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(15) The term "market maker" means a dealer who, with respect to a particular security, (a) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (b) furnishes bona fide competitive bid and offer quotations on request; and (c) is ready, willing, and able to effect transaction in reasonable quantities at his quoted prices with other brokers or dealers.

(16) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant.

(17) The term "mutual savings bank" means a mutual savings bank organized and operating under Title 32 RCW.

(18) Except as provided in RCW 32.32.435, the term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(19) The term "officer", for purposes of the purchase of stock in a conversion under this chapter or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(20) Except as provided in RCW 32.32.435, the term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(21) The term "proxy" includes every form of authorization by which a person is or may be deemed to be designated to act for a stockholder in the exercise of his voting rights in the affairs of an institution. Such an authorization may take the form of failure to dissent or object.

(22) The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(23) The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the supervisor.

(24) The term "savings account" means deposits established in a mutual savings bank and includes certificates of deposit.

(25) Except as provided in RCW 32.32.435, the term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(26) The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (a) Eligible account holders as required by RCW 32.32.045; (b) supplemental eligible account holders as required by RCW 32.32.055; (c) directors, officers, and employees, as permitted by RCW 32.32.140; and (d) eligible account holders and supplemental eligible account holders as permitted by RCW 32.32.145.

(27) A "subsidiary" of a specified person is an affiliate controlled by the person, directly or indirectly through one or more intermediaries.

(28) The term "supervisor" means the supervisor of banking.

(29) The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by RCW 32.32.055. The date shall be the last day of the calendar quarter preceding supervisor approval of the application for conversion.

(30) The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

(31) The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

Terms defined in other chapters of this title, when used in this chapter, shall have the meanings given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this chapter unless the context otherwise requires.

Sec. 17. Section 7, chapter 85, Laws of 1981 and RCW 32.32.040 are each amended to read as follows:

((The converting)) A converted savings bank or a holding company organized pursuant to chapter 32.34 RCW shall issue and sell ((its)) capital stock at a total price equal to the estimated pro forma market value of the stock ((in the converted savings bank)) issued in connection with the conversion, based on an independent valuation, as provided in RCW 32.32.305. In the conversion of a mutual savings bank or holding company, either of which is in the process of merging with, being acquired by, or consolidating with a stock savings bank, or a savings bank holding company owned by stockholders, or a subsidiary thereof, the following subsections apply:

(1) The price per share of the shares offered for subscription and issued in the conversion shall be not less than the price reported for stock which is listed on a national or regional stock exchange, or the bid price for stock which is traded on the NASDAQ system, as of the day before any public offering or other completion of the sale of stock in the conversion: PROVIDED, That for stock not so listed and not traded on the NASDAQ system, and any stock whose price has been affected, as of the day specified

above, by a violation of RCW 32.32.225, the price per share shall be determined by the supervisor, upon the submission of such information as the supervisor may request.

(2) The independent valuation as provided in RCW 32.32.305 shall determine the aggregate value of shares for which subscription rights are granted pursuant to RCW 32.32.045, 32.32.050, and 32.32.055, rather than a price per share or number of shares as provided in RCW 32.32.290, 32.32.325, and 32.32.330. This independent valuation may be replaced by a demonstration, to the satisfaction of the supervisor, of the fairness of the price of the shares issued.

Sec. 18. Section 22, chapter 85, Laws of 1981 and RCW 32.32.115 are each amended to read as follows:

In connection with shares of capital stock subject to restriction on sale for a period of time:

(1) Each certificate for the stock shall bear a legend giving appropriate notice of the restriction;

(2) Appropriate instructions shall be issued to the transfer agent for the ~~((converted savings bank's))~~ capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(3) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to the restricted stock.

Sec. 19. Section 23, chapter 85, Laws of 1981 and RCW 32.32.120 are each amended to read as follows:

~~((The converting))~~ A converted savings bank or holding company formed under chapter 32.34 RCW shall:

(1) Promptly following ~~((the))~~ its conversion register the securities issued in connection therewith pursuant to the Securities and Exchange Act of 1934 and undertake not to deregister the securities for a period of three years thereafter;

(2) Use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(3) Use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

Sec. 20. Section 29, chapter 85, Laws of 1981 and RCW 32.32.150 are each amended to read as follows:

Any insignificant residue of shares ~~((of the converting savings bank))~~ not sold in the subscription offering or in a public offering referred to in RCW 32.32.060 may be sold in such other manner as provided in the plan with the supervisor's approval.

Sec. 21. Section 41, chapter 85, Laws of 1981 and RCW 32.32.210 are each amended to read as follows:

No converted savings bank may repurchase any of its capital stock from any person unless the repurchase is approved by the supervisor either in advance or at the time of repurchase.

Sec. 22. Section 42, chapter 85, Laws of 1981 and RCW 32.32.215 are each amended to read as follows:

Except as provided in section 24 of this 1985 act, no converted savings bank may declare or pay a cash dividend unless the declaration or payment of the dividend would be in accordance with the requirements of RCW 30.04.180 and would not have the effect of reducing the net worth of the converted savings bank below (1) the amount required for the liquidation account or (2) the amount required by the supervisor.

Sec. 23. Section 43, chapter 85, Laws of 1981 and RCW 32.32.220 are each amended to read as follows:

Except as provided in section 24 of this 1985 act, no converted savings bank may, without the prior approval of the supervisor, (~~no converted savings bank may;~~) for a period of ten years after the date of its conversion, declare or pay a cash dividend on its capital stock in an amount in excess of one-half of the greater of:

- (1) The savings bank's net income for the current fiscal year; or
- (2) The average of the savings bank's net income for the current fiscal year and not more than two of the immediately preceding fiscal years.

For purposes of this chapter, "net income" shall be determined by generally accepted accounting principles.

NEW SECTION. Sec. 24. A new section is added to chapter 32.32 RCW to read as follows:

A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock if such issuance has been approved by the supervisor.

NEW SECTION. Sec. 25. A new section is added to chapter 32.32 RCW to read as follows:

- (1) As used in this section, the following definitions apply:
 - (a) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the controlled entity;
 - (b) "Acquiring party" means the person acquiring control of a bank through the purchase of stock;
 - (c) "Person" means any individual, corporation, partnership, group acting in concert, association, business trust, or other organization.

(2) (a) It is unlawful for any person to acquire control of a converted savings bank until thirty days after filing with the supervisor a completed application. The application shall be under oath or affirmation, and shall

contain substantially all of the following information plus any additional information that the supervisor may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(i) The identity and banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(ii) The financial and managerial resources and future prospects of each person involved in the acquisition;

(iii) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(iv) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(v) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure or management;

(vi) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation;

(vii) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition; and

(viii) Such additional information as shall be necessary to satisfy the supervisor, in the exercise of the supervisor's discretion, that each such person and associate meets the standards of character, responsibility, and general fitness established for incorporators of a savings bank under RCW 32.08.040.

(b) Notwithstanding any other provision of this section, a bank or bank holding company which has been in operation for at least three consecutive years or a converted mutual savings bank or the holding company of a mutual savings bank need only notify the supervisor and the savings bank to be acquired of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(c) When a person, other than an individual or corporation, is required to file an application under this section, the supervisor may require that the information required by (a) (i), (ii), (vi), and (viii) of this subsection be given with respect to each person, as defined in subsection (1)(c) of this

section, who has an interest in or controls a person filing an application under this subsection.

(d) When a corporation is required to file an application under this section, the supervisor may require that information required by (a) (i), (ii), (vi), and (viii) of this subsection be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(e) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the securities act of 1933 (48 Stat. 74, 15 U.S.C. Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934 (48 Stat. 881, 15 U.S.C. Sec. 78(a)), as amended, the registration statement or application may be filed with the supervisor in lieu of the requirements of this section.

(f) Any acquiring party shall also deliver a copy of any notice or application required by this section to the savings bank proposed to be acquired within two days after such notice or application is filed with the supervisor.

(g) Any acquisition of control in violation of this section shall be ineffective and void.

(h) Any person who wilfully or intentionally violates this section or any rule adopted under this section is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

(3) The supervisor may file an action in the superior court of the county in which the bank is located to restrain the pending acquisition of control of a savings bank if he finds after considering the application and within thirty days after its filing any of the following:

(a) The poor financial condition of any acquiring party might jeopardize the financial stability of the savings bank or might prejudice the interest of depositors, borrowers, or shareholders;

(b) The plan or proposal of the acquiring party to liquidate the savings bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to its depositors, borrowers, or stockholders or is not in public interest;

(c) The banking and business experience and integrity of any acquiring party who would control the operation of the savings bank indicates that approval would not be in the interest of the savings bank's depositors, borrowers, or shareholders;

(d) The information provided by the application is insufficient for the supervisor to make a determination or there has been insufficient time to

verify the information provided and conduct an examination of the qualification of the acquiring party; or

(c) The acquisition would not be in the public interest.

(4) (a) For a period of ten years following the acquisition of control by any person, neither such acquiring party nor any associate shall receive any loan or the use of any of the funds of, nor purchase, lease, or otherwise receive any property from, nor receive any consideration from the sale, lease, or any other conveyance of property to, any savings bank in which the acquiring party has control except as provided in (b) of this subsection.

(b) Upon application by any acquiring party or associate subject to (a) of this subsection, the supervisor may approve a transaction between a converted savings bank and such acquiring party, person, or associate, upon finding that the terms and conditions of the transaction are at least as advantageous to the savings bank as the savings bank would obtain in a comparable transaction with an unaffiliated person.

(5) Except with the consent of the supervisor, no converted savings bank shall, for the purpose of enabling any person to purchase any or all shares of its capital stock, pledge or otherwise transfer any of its assets as security for a loan to such person or to any associate, or pay any dividend to any such person or associate. Nothing in this section shall prohibit a dividend of stock among shareholders in proportion to their shareholdings. In the event any clause of this section is declared to be unconstitutional or otherwise invalid, all remaining dependent and independent clauses of this section shall remain in full force and effect.

Sec. 26. Section 45, chapter 85, Laws of 1981 and RCW 32.32.230 are each amended to read as follows:

(1) No conversion may be approved by the supervisor unless the plan of conversion provides that the converted savings bank shall enter into an agreement with the supervisor, in form satisfactory to the supervisor, which shall provide that for a period of three years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted savings bank. Any acquisition of a converted savings bank shall also comply with ~~((RCW 30.04.400 through 30.04.410))~~ section 25 of this 1985 act.

(2) As used in this section:

(a) The term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(b) A person or company shall be deemed to have "control" of:

(i) A savings bank if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty-five percent of the voting shares of the savings bank, or

controls in any manner the election of a majority of the directors of the bank;

(ii) Any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing more than twenty-five percent of the voting shares or rights of the other company, or controls in any manner the election or appointment of a majority of the directors or trustees of the other company, or is a general partner in or has contributed more than twenty-five percent of the capital of the other company;

(iii) A trust if the person is a trustee thereof; or

(iv) A savings bank or any other company if the supervisor determines, after reasonable notice and opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or policies of the savings bank or other company.

(c) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis, more than fifteen percent of its consolidated net worth at the close of this preceding fiscal year or of its consolidated net earnings for such fiscal year.

(d) The term "unrelated business activity" means any business activity not authorized for a savings bank or any subsidiary thereof.

Sec. 27. Section 52, chapter 85, Laws of 1981 and RCW 32.32.265 are each amended to read as follows:

Upon determination that an application for conversion is properly executed and is not materially incomplete, the supervisor shall advise the applicant, in writing, to publish notices of the filing of the application. Promptly after receipt of the advice, the applicant shall furnish a written notice of the filing to each eligible account holder and also publish a notice of the filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION FOR APPROVAL TO CONVERT TO A STOCK SAVINGS BANK

Notice is hereby given that, pursuant to chapter 32.32 of the Revised Code of Washington

.....
(fill in name of applicant)

has filed an application with the Supervisor of Banking for approval to convert to the stock form of organization. Copies of the application have been delivered to _____ (address).

Written comments, including objections to the plan of conversion and materials supporting the objections, from any account holder of the applicant or aggrieved person, will be considered by the supervisor if filed within twenty business days after the date of this notice. Failure to make written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of the comments should be sent to the aforementioned. The proposed plan of conversion and any comments thereon will be available for inspection by any account holder of the applicant at _____ (address) _____. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's account holders speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of the notice shall also be published in that newspaper. A notice sent by mail may be accompanied by the statement that the converting institution will not mail a subscription offering circular to an eligible account holder or a supplemental eligible account holder unless the eligible account holder or the supplemental eligible account holder, prior to the commencement of the subscription offering, requests the subscription offering circular by returning a postcard. The issuer of stock in the conversion shall pay the postage of this postcard and shall inform the eligible account holder or supplemental eligible holder that the postage is paid.

Sec. 28. Section 97, chapter 85, Laws of 1981 and RCW 32.32.490 are each amended to read as follows:

Amendments to the articles of incorporation of the converted savings bank shall be made (~~in accordance with the procedures specified in RCW 30.08.088 and 30.08.090, provided that the amendments are also approved by the supervisor~~) only with the approvals of the supervisor, of two-thirds of the directors of the savings bank, and of the holders of a majority of each class of the outstanding shares of capital stock or such greater percentage of these shares as may be specified in the articles of the converted savings bank.

Sec. 29. Section 98, chapter 85, Laws of 1981 as amended by section 3, chapter 44, Laws of 1983 and RCW 32.32.495 are each amended to read as follows:

(1) Every converted savings bank shall be managed by not less than five directors, except that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a

day to be specified by the converted savings bank's bylaws but not later than May 15th of each year. If for any cause an election is not held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. Each director shall be a resident of a state of the United States. The directors shall meet at least (~~once~~) nine times each (~~month~~) year and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

(2) If the board of directors consists of nine or more members, in lieu of electing the entire number of directors annually, the converted savings bank's articles of incorporation or bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there are two classes, or until the third succeeding annual meeting, if there are three classes. A classification of directors shall not be effective prior to the first annual meeting of shareholders.

(3) Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to the corporation.

(4) A vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office. A directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

NEW SECTION. Sec. 30. A new section is added to chapter 32.32 RCW to read as follows:

(1) In a conversion of an unconverted mutual savings bank that is in the process of acquisition by a savings bank holding company or in the process of merger or consolidation with a subsidiary of a savings bank holding company, the restrictions imposed by RCW 32.32.110 on resale of stock apply to shares of the holding company purchased on original issue by any

director or officer of the converting savings bank that is in the process of acquisition, merger, or consolidation, and the restrictions imposed by this chapter apply to the ownership of capital stock in the holding company with the same force and effect as they would apply to the ownership of capital stock of the unconverted mutual savings bank if shares of this savings bank were offered to depositors or the public pursuant to this chapter.

(2) The tender of shares by directors and officers of a converted savings bank in exchange for shares of another converted savings bank, or for shares of a holding company, do not constitute a sale for purposes of RCW 32.32.110. However, the restrictions of RCW 32.32.110 and 32.32.115 apply to the resale of the shares they receive in such an exchange with the same force and effect as to the shares of the converted savings bank they purchased on original issue for a period of three years following the date of such purchase on original issue.

Sec. 31. Section 99, chapter 85, Laws of 1981 and RCW 32.32.500 are each amended to read as follows:

A mutual savings bank or bank converted under this chapter may merge with, consolidate with, convert into, acquire the assets of, or sell its assets to any other financial institution chartered under Titles 30, 32, or 33 RCW or under the National Bank Act, as amended, or the National Housing Act, as amended, or to a holding company thereof, subject to (1) the approval of the supervisor of banking if the surviving institution is one chartered under Title 30 or 32 RCW, or (2) approval of the supervisor of savings and loans if the surviving institution is one chartered under Title 33 RCW, or (3) if the surviving institution is to be a national bank, the comptroller of currency under 12 U.S.C. Sec. 35, 12 U.S.C. Sec. 215, 12 U.S.C. Sec. 215a, and 12 U.S.C. Sec. 1828c, or (4) if the surviving institution is to be a federal savings and loan association, the Federal Home Loan Bank Board under 12 U.S.C. Sec. 1464 (d)(11), or (5) if the surviving institution is to be a bank holding company, the Federal Reserve Board under 12 U.S.C. Sec. 1842 (a) and (d).

In the case of a liquidation, acquisition, merger, consolidation, or conversion of a converted savings bank, chapter(~~s 30.44 and 30.49~~) 32.34 RCW shall apply.

Sec. 32. Section 100, chapter 85, Laws of 1981 and RCW 32.32.505 are each amended to read as follows:

(1) It is the intention of the legislature to grant, by this chapter, authority to permit conversions by mutual savings banks to capital stock form, and the rights, powers, restrictions, limitations, and requirements of Title 32 RCW shall apply to a converted mutual savings bank except that, in the event of conflict between the provisions of this chapter and other provisions of Title 32 RCW, the other provisions shall be construed in favor of the accomplishment of the purposes of this chapter.

(2) References in the Revised Code of Washington as of the most recent effective date of any amendment, to mutual savings banks shall refer also to stock savings banks converted from mutual form under this chapter. References in the Revised Code of Washington to the board of trustees of a mutual savings bank shall refer also to the board of directors of a stock savings bank converted from mutual form under this chapter. The provisions of Title 30 RCW shall not apply to a converted mutual savings bank except insofar as the provisions would apply to a mutual savings bank.

NEW SECTION. Sec. 33. (1) The voluntary liquidation of a mutual savings bank converted to the stock form requires the affirmative vote or written consent of two-thirds of the directors of the converted savings bank, requires the affirmative vote of two-thirds of the outstanding stock of the savings bank, shall proceed as prescribed in chapter 32.24 RCW, and shall be complete upon the payment of any surplus remaining, after satisfaction of all debts and liabilities of the savings bank, to shareholders in accordance with their legal rights to such surplus.

(2) A savings bank which has converted to the stock form may sell all its assets and transfer all its liabilities upon the affirmative vote or with the written consent of two-thirds of its directors, and upon the affirmative vote of the holders of two-thirds of the outstanding voting shares in each class entitled to vote.

(3) Any merger or consolidation involving a mutual savings bank converted to stock form requires approval by two-thirds of the directors and by the holders of a majority of the outstanding voting shares in each class except that a merger or consolidation approved by two-thirds of the outstanding voting shares in each class requires approval by only a majority of the directors of the converted savings bank, and except as provided in subsection (4) of this section.

(4) A savings bank that has converted to the stock form may engage in a consolidation and pooling of assets upon the affirmative vote of two-thirds of its directors, if (a) the total assets of the converted savings bank, immediately prior to the day of the consolidation and pooling of assets, exceed two-thirds of the assets of the institution that would result from the consolidation and pooling of assets, (b) the converted savings bank will survive the consolidation and pooling of assets, without its shareholders surrendering their shares of stock in the converted savings bank, and (c) the other institution being merged or consolidated is a savings bank or savings and loan association.

(5) Any converted savings bank may provide in its articles of incorporation for a higher percentage of affirmative shareholder votes to approve any liquidation, sale of assets, merger, or consolidation.

NEW SECTION. Sec. 34. (1) No savings bank having capital stock may establish a holding company to own all its stock without the approval of the supervisor. Upon tender of their shares of the converted savings bank,

the shareholders of the savings bank shall receive all the shares of the holding company which are outstanding at the time of this tender.

(2) Any company owning more than twenty-five percent of the outstanding voting stock of a savings bank doing business under this Title 32 RCW shall, in addition to the restrictions of section 25 of this act, be subject to regulation as a savings bank holding company. Any savings bank holding company which is not subject to regulation by the federal reserve board or the federal home loan bank board, and all holding company subsidiaries engaging in businesses which are not subject to regulation or licensing by the federal home loan bank board, the supervisor of savings and loan associations, the commissioner of insurance, or the administrator authorized to regulate loan companies doing business under Title 31 RCW, will be subject to such regulation of accounting practices and of the qualifications of directors and officers, and such inspection and visitation by the supervisor of banking as the supervisor shall deem appropriate, subject to the limitations imposed on regulation, inspection, and visitation of a savings bank under this title. In addition, any savings bank holding company and all holding company subsidiaries will be subject to visitation by the supervisor of banking as such shall deem appropriate, subject to the limitations imposed on visitation of a savings bank under this Title 32 RCW and under the supremacy clause of the Constitution of the United States. The savings bank subsidiary of this holding corporation may engage in subsequent mergers, consolidations, acquisitions, and conversions, only to the extent authorized by RCW 32.32.500, and only upon complying with the applicable requirements in section 33 of this act and this chapter.

(3) In the event a savings bank forms a subsidiary to carry out any of the powers of savings banks under this title, any institution with which this subsidiary merges shall continue to be subject to regulation, inspection, and visitation by the supervisor of savings and loans if the subsidiary is authorized to do business by Title 33 RCW.

NEW SECTION. Sec. 35. A savings bank not having capital stock may establish a business trust for the benefit of its depositors, with the approval of the supervisor and subject to such rules and regulations as the supervisor may adopt. The supervisor may permit this business trust to become a mutual holding company owning all shares of an interim stock savings bank, the sole purpose of which shall be to merge into the mutual savings bank that formed the business trust. The depositors in an unconverted savings bank which has merged with the subsidiary of such a mutual holding company, in the event of a later conversion of this mutual holding company to the stock form, shall retain all their rights to their deposits in the savings bank, and shall also receive, without payment, nontransferable rights to subscribe for the stock of the holding company, and rights to a liquidation account maintained by the holding company in proportion to their deposits in the savings bank, to the same extent that they

would receive these rights in a stock conversion of the savings bank as prescribed in chapter 32.32 RCW.

NEW SECTION. Sec. 36. (1) Any holder of shares of a savings bank shall be entitled to receive the value of these shares, as specified in subsection (2) of this section, if (a) the savings bank is voluntarily liquidating, being acquired, merging, or consolidating, (b) the shareholder voted, in person or by proxy, against the liquidation, acquisition, merger, or consolidation, at a meeting of shareholders called for the purpose of voting on such transaction, and (c) the shareholder delivers a written demand for payment, with the stock certificates, to the savings bank within thirty days after such meeting of shareholders. The value of shares shall be paid in cash, within ten days after receipt of the written demand and stock certificates, except that if three appraisers are appointed as specified in subsection (2) of this section, the payment shall be due forty-five days after receipt of such demand and stock certificates.

(2) The value of such shares shall be the price published for shares listed on a national securities exchange, and shall be the bid price published for shares traded over the counter, at the close of business on the business day before the shareholders' meeting at which the shareholder dissented, except that if such shares are not so listed or traded, or if the value so determined differs by twenty percent or more from the average of such prices for the shares during the thirty days prior to this business day, or if a violation of RCW 32.32.225 has affected such determination, then the value of the shares shall be determined, within forty days after delivery of the stock certificates, by three appraisers appointed as provided in RCW 30.49.090.

NEW SECTION. Sec. 37. Sections 33 through 36 of this act are each added to chapter 32.34 RCW.

NEW SECTION. Sec. 38. The following acts or parts of acts are each repealed:

- (1) Section 32.20.140, chapter 13, Laws of 1955 and RCW 32.20.140;
 - (2) Section 32.20.150, chapter 13, Laws of 1955 and RCW 32.20.150;
 - (3) Section 32.20.170, chapter 13, Laws of 1955, section 4, chapter 80, Laws of 1955 and RCW 32.20.170;
 - (4) Section 32.20.180, chapter 13, Laws of 1955 and RCW 32.20.180;
- and
- (5) Section 32.20.190, chapter 13, Laws of 1955 and RCW 32.20.190.

Passed the Senate April 9, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 57

[Engrossed Senate Bill No. 3572]
PUBLIC FUNDS AND ACCOUNTS

AN ACT Relating to public funds and accounts; amending RCW 2.56.100, 15.52.320, 18.04.105, 18.08.240, 18.43.150, 18.72.390, 27.34.090, 27.60.060, 28A.46.010, 28B.10.821, 28B.10.851, 28B.10.852, 28B.14D.040, 28B.31.040, 28B.35.370, 28B.50.360, 28B.56.030, 28B.57.050, 28C.50.040, 37.14.010, 39.42.090, 40.14.025, 41.04.260, 41.05.040, 42.16.011, 43.01.050, 43.08.250, 43.19.610, 43.24.072, 43.31.942, 43.31.958, 43.33A.160, 43.51.200, 43.51.280, 43.51.310, 43.79.080, 43.79.201, 43.79.330, 43.79.335, 43.79.350, 43.79.445, 43.79.450, 43.83.020, 43.83A.030, 43.83B.030, 43.83B.360, 43.83C.030, 43.83D.030, 43.83H.030, 43.83I.166, 43.88.525, 43.99.040, 43.99.060, 43.99C.040, 43.99F.030, 43.101.210, 43.140.030, 46.08.172, 46.09.110, 46.10.075, 46.81.060, 47.68.236, 47.76.030, 58.24.060, 67.40.040, 70.39.170, 70.93.180, 70.94.656, 70.105.180, 72.72.030, 74.18.230, 75.48.030, 76.04.515, 76.12.110, 79.24.030, 79.24.060, 79.24.085, 79.24.580, 79.64.020, 82.14.050, 82.14.200, 82.14.210, 82.29A.080, 82.32.400, 82.42.090, 84.33.041, and 86.26.007; adding a new section to chapter 43.84 RCW; creating a new section; repealing RCW 43.84.100, 43.84.110, and 43.85.241; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 7, chapter 132, Laws of 1981 as amended by section 1, chapter 9, Laws of 1983 1st ex. sess. and RCW 2.56.100 are each amended to read as follows:

(1) There shall be levied and paid into the judiciary education account hereby created in the (~~general fund of the~~) state treasury a penalty assessment in addition to the penalty or fine imposed as a result of a hearing conducted under RCW 46.63.090 or 46.63.100 on all offenses involving a violation of a state statute or city or county ordinance relating to the operation or use of motor vehicles or the licensing of vehicle operators, except offenses relating to parking of vehicles. The amount of the assessment shall be as follows:

(a) When the fine or penalty is ten dollars to nineteen dollars and ninety-nine cents, four dollars;

(b) When the fine or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, seven dollars;

(c) When the fine or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, ten dollars;

(d) When the fine or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, fifteen dollars; and

(e) When the fine or penalty is one hundred dollars or more, twenty dollars.

(2) When a fine or penalty is paid, the assessment prescribed in this section shall be forwarded to the state treasurer and deposited in the judiciary education account. No money in the judiciary education account may be spent except pursuant to an appropriation by the legislature to the administrator for the courts authorizing such spending for the purpose of providing programs and standards for the training and education of judicial

personnel: PROVIDED, That if the legislature determines that the judiciary education account balance exceeds the amount required for training and education of judicial personnel, the legislature may appropriate from the account for other judicial purposes.

(3) All earnings of investments of balances in the judiciary education account shall be credited to the general fund.

Sec. 2. Section 15.52.320, chapter 11, Laws of 1961 and RCW 15.52-.320 are each amended to read as follows:

All money collected as fees for brand registrations hereunder shall be deposited in a special account (~~(of the general fund of)~~) in the state treasury known as the feed and fertilizer account, and used exclusively for the maintenance and enforcement of this chapter, except that not to exceed fifteen percent of said registration fees may, with the consent of the director, be used to purchase equipment and materials to facilitate testing and analyzing required herein. All earnings of investments of balances in the feed and fertilizer account shall be credited to the general fund.

Sec. 3. Section 7, chapter 234, Laws of 1983 and RCW 18.04.105 are each amended to read as follows:

(1) The certificate of "certified public accountant" shall be granted by the board to any person:

- (a) Who is of good character;
- (b) Who has a baccalaureate degree conferred by a college or university recognized by the board, and whose educational program included an accounting concentration or its equivalent, and related subjects the board determines to be appropriate; and
- (c) Who has passed a written examination in accounting, auditing, and related subjects the board determines to be appropriate.

(2) The board may, in its discretion, waive the educational requirement for any person if it is satisfied, by appropriate means of evaluation, that the person's educational qualifications are an acceptable substitute for the requirements of subsection (1)(b) of this section.

(3) The examination described in subsection (1)(c) of this section shall be held by the board and shall take place as often as the board determines to be desirable, but at least once a year. The board may use all or any part of the examination and grading service of the American Institute of Certified Public Accountants to assist it in performing its duties under this chapter.

(4) A person who has met the educational requirements of subsection (1)(b) of this section, or who expects to meet it within one hundred twenty days following the examination, or with respect to whom it has been waived under subsection (2) of this section, is eligible to take the examination if the person also meets the requirements of subsection (1)(a) of this section. If a person is admitted to the examination on the expectation that he or she will complete the educational requirement within one hundred twenty days, no

certificate may be issued, nor credit for the examination or any part of it be given, unless this requirement is in fact completed within that time or within such time as the board in its discretion may determine upon application.

(5) The board may, by rule, provide for granting credit to a person for satisfactory completion of a written examination in any one or more of the subjects specified in subsection (1)(c) of this section given by the licensing authority in any other state. These rules shall include requirements the board determines to be appropriate in order that any examination approved as a basis for any credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time credit is granted.

The board may, by rule, prescribe the terms and conditions under which a person who passes the examination in one or more of the subjects indicated in subsection (1)(c) of this section may be reexamined in only the remaining subjects, giving credit for the subjects previously passed. It may also provide by rule for a reasonable waiting period for a person's reexamination in a subject he or she has failed. A person is entitled to any number of reexaminations, subject to this subsection and any other rules adopted by the board.

A person passing the examination in any one or more subjects specified in subsection (1)(c) of this section shall meet the educational requirements of subsection (1)(b) of this section in effect on the date the person successfully completes the requirements of subsection (1)(c) of this section. The board may provide, by rule, for exceptions to prevent what it determines to be undue hardship to applicants.

(6) The board shall charge each applicant an examination fee for the initial examination under subsection (1) of this section, or for reexamination under subsection (5) of this section for each subject in which the applicant is reexamined, or for evaluation of a person's educational qualifications under subsection (2) of this section. The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There is established in the ((general fund)) state treasury an account to be known as the certified public accountant examination account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be deposited by the board into this account, and funds appropriated from the account shall be used only for costs directly related to the examination. All earnings of investments of balances in the certified public accountant examination account shall be credited to the general fund.

(7) Persons who on July 1, 1983, held certified public accountant certificates previously issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be

subject to this chapter. Certificates previously issued shall, for all purposes, be considered certificates issued under this chapter and subject to its provisions.

(8)(a) Persons who on July 1, 1983, hold registrations as licensed public accountants and annual permits to practice previously issued under the laws of this state shall be entitled to practice public accounting and be known as certified public accountants and to use the designation "CPA" provided that these persons continue to hold permits to practice under this chapter.

(b) Persons who held qualifications as licensed public accountants but who do not hold annual permits to practice on July 1, 1983, are not entitled to engage in the practice of public accounting under this chapter unless they meet the requirements imposed by this chapter for certified public accountants. These persons shall not use the term "licensed public accountants" or the designation "LPA."

Sec. 4. Section 15, chapter 323, Laws of 1959 and RCW 18.08.240 are each amended to read as follows:

There is established in the state (~~(general fund)~~) treasury the architects' license account, into which all fees paid pursuant to this chapter shall be paid. All earnings of investments of balances in the architects' license account shall be credited to the general fund.

Sec. 5. Section 3, chapter 126, Laws of 1965 ex. sess. and RCW 18.43.150 are each amended to read as follows:

All fees collected under the provisions of RCW 18.43.050, 18.43.080 and 18.43.130 shall be divided and twenty percent paid into the state general fund and eighty percent paid into the professional engineers' account (~~(of the state general fund)~~), which account is hereby established in the state treasury to be used to carry out the purposes and provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, 18.43.110, 18.43.120, 18.43.130, 18.43.140 and all other duties required for operation and enforcement of this chapter. All earnings of investments of balances in the professional engineers' account shall be credited to the general fund.

Sec. 6. Section 2, chapter 71, Laws of 1983 and RCW 18.72.390 are each amended to read as follows:

Because it is the express purpose of this chapter to protect the public health and to provide for a public agency to act as a disciplinary body for members of the medical profession licensed to practice medicine and surgery in this state, and because the health and well-being of the people of this state are of paramount importance, there is hereby created an account (~~(within the general fund)~~) in the state treasury to be known as the medical disciplinary account. All assessments, fines, and other funds collected or received pursuant to this chapter shall be deposited in the medical disciplinary account and used to administer and implement this chapter. All earnings of

investments of balances in the medical disciplinary account shall be credited to the general fund.

Sec. 7. Section 9, chapter 91, Laws of 1983 and RCW 27.34.090 are each amended to read as follows:

All moneys in the state capitol historical museum association account (~~(established under RCW 27.36.070,)~~) hereby created in the state treasury and any moneys appropriated from that account, shall be expended for the purposes of the state capital historical association museum as determined by a majority of the governing board of the state capital historical association. All earnings of investments of balances in the state capitol historical association museum account shall be credited to the general fund.

Sec. 8. Section 2, chapter 120, Laws of 1934 and RCW 27.60.060 are each amended to read as follows:

Subject to existing state law, the commission may disburse legislatively appropriated funds for commemorative programs and activities. It may accept gifts or grants from public or private sources. It may generate earned income through contractual licensing of its symbol for use in commercially manufactured commemorative products or grant use of the symbol in recognition of services provided. Gifts, grants, and earned income shall be retained in (~~a separate account within the general fund~~) the centennial commission account, hereby created in the state treasury for use by the commission in the support of commemorative programs and activities defined but not limited by RCW 27.60.040(1) (a) through (g). Funds not expended by December 31, 1990, shall revert to the general fund. All earnings of investments of balances in the centennial commission account shall be credited to the general fund.

Sec. 9. Section 28A.46.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.46.010 are each amended to read as follows:

There is created a special state school fund to be known as the state school equalization fund, into which shall be deposited such funds as are directed by law to be placed therein. Any amounts in this fund in excess of current appropriations shall be transferred by the state treasurer to the general fund quarterly, on or before the twenty-fifth day of January, April, July and October of each year. All appropriations made by the legislature from the state school equalization fund shall be paid out of moneys in the general fund of the state. All warrants drawn on the state school equalization fund and presented for payment shall be paid from the general fund of the state. All earnings of investments of balances in the state school equalization fund shall be credited to the general fund.

Sec. 10. Section 1, chapter 55, Laws of 1981 and RCW 28B.10.821 are each amended to read as follows:

The state educational grant account is hereby established (~~(within the state general fund)~~) in the state treasury. The commission shall deposit refunds and recoveries of student financial aid funds expended in prior biennia in such account. Expenditures from such account shall be for financial aid to needy or disadvantaged students. All earnings of investments of balances in the state educational grant account shall be credited to the general fund.

Sec. 11. Section 2, chapter 135, Laws of 1973 1st ex. sess. and RCW 28B.10.851 are each amended to read as follows:

The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state (~~(general fund)~~) treasury. All earnings of investments of balances in the state higher education construction account shall be credited to the general fund.

Sec. 12. Section 3, chapter 135, Laws of 1973 1st ex. sess. and RCW 28B.10.852 are each amended to read as follows:

At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by RCW 28B.10.850 through 28B.10.855 shall be deposited in the state higher education construction account (~~(of the general fund)~~) in the state treasury and shall be used exclusively for the purposes specified in RCW 28B.10.850 through 28B.10.855 and for the payment of expenses incurred in the issuance and sale of the bonds.

Sec. 13. Section 4, chapter 253, Laws of 1979 ex. sess. and RCW 28B.14D.040 are each amended to read as follows:

Except for that portion of the proceeds required to pay bond anticipation notes under RCW 28B.14D.020, the proceeds from the sale of the bonds and bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account (~~(of the general fund)~~) hereby created in the state treasury. All earnings of investments of balances in the higher education construction account shall be credited to the general fund.

Sec. 14. Section 4, chapter 344, Laws of 1977 ex. sess. and RCW 28B.31.040 are each amended to read as follows:

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.31.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized by this chapter, and any interest earned on such proceeds, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents of Washington State University may direct the state treasurer to deposit therein, shall be deposited in the Washington State University construction account (~~(of the general fund)~~) hereby created in the state treasury.

Sec. 15. Section 28B.40.370, chapter 223, Laws of 1969 ex. sess. as amended by section 79, chapter 169, Laws of 1977 ex. sess. and RCW 28B.35.370 are each amended to read as follows:

Within thirty-five days from the date of collection thereof all general tuition fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if issuing bonds payable out of its general tuition fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all general tuition fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University bond retirement fund, the Central Washington University bond retirement fund, the Western Washington University bond retirement fund, or The Evergreen State College bond retirement fund respectively, which funds are hereby created in the state treasury, such funds for the regional universities being redesignations for the Eastern Washington State College bond retirement fund, the Central Washington State College bond retirement fund, and the Western Washington State College bond retirement fund, respectively. The amounts deposited in the respective bond retirement funds shall be used exclusively to pay and secure the payment of the principal of and interest on the tuition fee bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding general tuition fee and above described normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and

such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All general tuition fees and above described normal school fund revenue not needed for or in excess of the amounts certified to the state treasurer as being required to pay and secure the payment of general tuition fee or above described normal school fund revenue bond principal or interest shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the (~~general fund of the~~) state treasury(~~(f-1)~~), such funds for the regional universities being redesignations for the Eastern Washington State College capital projects account, the Central Washington State College capital projects account, and the Western Washington State College capital projects account, respectively. The sums deposited in the respective capital projects accounts shall be appropriated and expended exclusively for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law. All earnings of investments of balances in these respective capital projects accounts shall be credited to the general fund.

Sec. 16. Section 20, chapter 15, Laws of 1970 ex. sess. as last amended by section 4, chapter 112, Laws of 1974 ex. sess. and RCW 28B.50.360 are each amended to read as follows:

There is hereby created in the state treasury a community college bond retirement fund. Within thirty-five days from the date of start of each quarter all general tuition fees of each such community college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of general tuition fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community college bond retirement fund which fund as required, is hereby created in the state treasury. Such amounts of the funds deposited in the bond retirement fund as are necessary to pay and secure the payment of the principal of and interest on the tuition fee bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding general tuition fee bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so

that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) That portion of the general tuition fees (not required for or in excess of the amounts necessary to pay and secure the payment of any of the bonds as provided in subsection (1) above) shall be deposited in the community college capital projects account which account is hereby created in ~~((the general fund of))~~ the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes. All earnings of investments of balances in the community college capital projects account shall be credited to the general fund.

(3) Notwithstanding the provisions of subsections (1) and (2) above, at such time as all outstanding tuition fee bonds of the college board payable from the community college bond retirement fund have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community college bond retirement fund, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all general tuition fees of the community colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the said bond retirement fund and shall determine the amount required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such community college tuition fee bonds from some source other than the community college bond retirement fund or as pledging the general credit of the state to the payment of such bonds.

Sec. 17. Section 3, chapter 133, Laws of 1972 ex. sess. and RCW 28B.56.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be deposited in the community college capital improvements account hereby created in the ~~((general fund))~~ state treasury and shall be used exclusively for

the purposes specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds.

Sec. 18. Section 5, chapter 65, Laws of 1975 1st ex. sess. and RCW 28B.57.050 are each amended to read as follows:

The proceeds from the sale of the bonds and/or bond anticipation notes authorized herein, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account, hereby created in the state (~~(general fund)~~) treasury. All earnings of investments of balances in the 1975 community college capital construction account shall be credited to the general fund.

Sec. 19. Section 4, chapter 349, Laws of 1977 ex. sess. and RCW 28C.50.040 are each amended to read as follows:

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28C.50.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fire training construction account (~~(of the general fund)~~) hereby created in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. All earnings of investments of such balances shall be credited to the fire training construction account.

Sec. 20. Section 1, chapter 128, Laws of 1975-'76 2nd ex. sess. as last amended by section 7, chapter 54, Laws of 1983 1st ex. sess. and RCW 37-.14.010 are each amended to read as follows:

Solely for the purpose of providing a matching grant for the planning, design, acquisition, construction, furnishing, equipping, remodeling, and landscaping of a regional Indian cultural, educational, tourist, and economic development facility designated as the "people's lodge," the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars or so much thereof as shall be required to finance that portion of the grant by the state for said project as is set forth by appropriation from the Indian cultural center construction account (~~(in the general fund)~~) in the state treasury for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. All earnings of investments of balances in the Indian cultural center construction account shall be credited to the general fund.

If one hundred fifteen thousand dollars or more in additional federal and/or private funding is not secured within five years of September 1,

1979, and applied toward the completion of the "people's lodge," ownership of the property and/or facility developed with the proceeds of the bonds issued under this section shall be transferred to the state. Expenditure of these bond proceeds shall be conditioned on prior approval by the director of general administration of any real estate acquisitions and of construction plans for any building and/or grounds projects. The director's approval shall be based on a finding that any real estate to be acquired is appraised at or above the purchase price, that any construction plans for building and/or grounds projects provide for completion of any facilities contemplated therein, and that there are funds in an amount sufficient to finish the project so that it is fully operational for its intended uses.

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

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

Sec. 21. Section 9, chapter 184, Laws of 1971 ex. sess. and RCW 39-.42.090 are each amended to read as follows:

The state finance committee may issue certificates of indebtedness in such sum or sums that may be necessary to meet temporary deficiencies of the treasury((:)). Such certificates may be issued only to provide for the appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of issuance.

For the purposes of this section, the state treasury shall include all statutorily established funds and accounts except for any of the permanent irreducible funds of the state treasury.

Sec. 22. Section 4, chapter 115, Laws of 1981 and RCW 40.14.025 are each amended to read as follows:

The secretary of state and the director of financial management shall jointly establish a schedule of fees and charges governing the services provided by the division of archives and records management to other state agencies, offices, departments, and other entities. The schedule shall be determined such that the fees and charges will provide the division with funds to meet its anticipated expenditures during any allotment period.

There is created the archives and records management account (~~(within the general fund;)~~) in the state treasury which shall consist of all fees and charges collected under this section. The account shall be appropriated exclusively for use by the secretary of state for the payment of costs and expenses incurred in the operation of the division of archives and records

management. All earnings of investments of balances in the archives and records management account shall be credited to the general fund.

Sec. 23. Section 1, chapter 274, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 242, Laws of 1984 and RCW 41.04.260 are each amended to read as follows:

(1) There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who possesses expertise in the area of insurance or investment of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The committee shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The deferred compensation revolving fund is hereby created in the state treasury. All expenses of the committee including staffing and administrative expenses shall be paid out of the deferred compensation revolving fund.

The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid into the revolving fund and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The revolving fund shall be used to carry out the purposes of RCW 41.04.250. All eligible state employees shall be given the opportunity to participate in agreements entered into by the committee under RCW 41.04.250. State agencies shall cooperate with the committee in providing employees with the opportunity to participate. Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the committee under RCW 41.04.250, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the revolving fund shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein. All moneys in the revolving fund, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(3) The state investment board, at the request of the deferred compensation committee, is authorized to invest moneys in the deferred compensation revolving fund in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation revolving fund. The earnings on any surplus balances in the deferred compensation revolving fund shall be credited to the deferred compensation fund, notwithstanding RCW 43.84.090.

(4) The deferred compensation committee shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.04.250 through 41.04.260.

The deferred compensation committee shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under the committee's jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(5) Members of the deferred compensation committee shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.04.250 through 41.04.260 and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(6) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260.

Sec. 24. Section 4, chapter 39, Laws of 1970 ex. sess. as amended by section 3, chapter 136, Laws of 1977 ex. sess. and RCW 41.05.040 are each amended to read as follows:

There is hereby created a fund within the state treasury, designated as the "state employees insurance fund", to be used by the trustee as a revolving fund for the deposit of contributions, dividends and refunds, and for payment of premiums for employee insurance benefit contracts entered into in accordance with instructions of the board and payments authorized by RCW 41.05.030(2). Moneys from the state employees insurance fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the trustee. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the state employees insurance fund shall be credited to this fund.

Sec. 25. Section 2, chapter 25, Laws of 1967 ex. sess. as last amended by section 1, chapter 9, Laws of 1981 and RCW 42.16.011 are each amended to read as follows:

A state payroll revolving account (~~in the state general fund~~) and an agency payroll revolving fund are created in the state treasury, for the payment of compensation to employees and officers of the state and distribution

of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management: PROVIDED FURTHER, That the utilization of the agency payroll revolving fund shall be optional for agencies whose operations are funded in whole or part other than by funds appropriated from the state treasury.

Sec. 26. Section 43.01.050, chapter 8, Laws of 1965 as last amended by section 5, chapter 4, Laws of 1981 2nd ex. sess. and RCW 43.01.050 are each amended to read as follows:

Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him on the preceding day: PROVIDED, That the state treasurer may in his discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys (~~in the state general fund~~) in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation.

Sec. 27. Section 338, chapter 258, Laws of 1984 and RCW 43.08.250 are each amended to read as follows:

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state (~~general fund~~) treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, winter recreation parking, and state game programs. All earnings of investments of balances in the public safety and education account shall be credited to the general fund.

Sec. 28. Section 12, chapter 167, Laws of 1975 1st ex. sess. and RCW 43.19.610 are each amended to read as follows:

There is hereby established in the (~~general fund of the~~) state treasury an account to be known as the motor transport account into which shall be paid all moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or his duly authorized representative and as may be provided by law. All earnings of investments of balances in the motor transport account shall be credited to the general fund.

Sec. 29. Section 5, chapter 168, Laws of 1983 and RCW 43.24.072 are each amended to read as follows:

There is created in the state treasury an account (~~within the general fund~~) to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations shall be forwarded to the state treasurer who shall credit such moneys to the health professions account. All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. All earnings of investments of balances in the health professions account shall be credited to the general fund.

The director shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

Sec. 30. Section 3, chapter 197, Laws of 1979 ex. sess. and RCW 43.31.942 are each amended to read as follows:

At the time the state finance committee determines to issue the bonds authorized in RCW 43.31.940, or a portion thereof, it may, pending the issuance thereof, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes." The proceeds from the sale of bonds and notes authorized by RCW 43.31.940 and this section shall be deposited in the Pacific northwest festival facility construction account, hereby created (~~in the general fund~~) in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.31.940 through (~~43.31.954~~) 43.31.948 and for the payment of expenses incurred in the issuance and sale of the bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the Pacific northwest festival facility bond redemption

fund of 1979 in the state treasury created by RCW 43.31.946. All earnings of investments of balances in the Pacific northwest festival facility construction account shall be credited to the general fund.

Sec. 31. Section 2, chapter 260, Laws of 1979 ex. sess. and RCW 43.31.958 are each amended to read as follows:

At the time the state finance committee determines to issue the bonds authorized in RCW 43.31.956, it may, pending issuance thereof, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes." The proceeds from the sale of the bonds and notes authorized by RCW 43.31.956, and this section, shall be deposited in the "cultural facilities construction account" hereby created (~~in the general fund~~) in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.31.956 through 43.31.964 and for the payment of expenses incurred in the issuance and sale of the bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes, as have been issued, shall be deposited in the cultural facilities bond redemption fund of 1979 in the state treasury created by RCW 43.31.962. All earnings of investments of balances in the cultural facilities construction account shall be credited to the general fund.

Sec. 32. Section 10, chapter 10, Laws of 1982 and RCW 43.33A.160 are each amended to read as follows:

(1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established (~~within the general fund~~) in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. All earnings of investments of balances in the state investment board expense account shall be credited to the state investment board expense account.

Sec. 33. Section 1, chapter 87, Laws of 1984 and RCW 43.51.200 are each amended to read as follows:

(1) Any lands owned by the state parks and recreation commission, which are determined to be surplus to the needs of the state for development

for state park purposes and which the commission proposes to deed to a local government or other entity, shall be accompanied by a clause requiring that if the land is not used for outdoor recreation purposes, ownership of the land shall revert to the state parks and recreation commission.

(2) The state parks and recreation commission, in cases where land subject to such a reversionary clause is proposed for use or disposal for purposes other than recreation, shall require that, if the land is surplus to the needs of the commission for park purposes at the time the commission becomes aware of its proposed use for nonrecreation purposes, the holder of the land or property shall reimburse the commission for the release of the reversionary interest in the land. The reimbursement shall be in the amount of the fair market value of the reversionary interest as determined by a qualified appraiser agreeable to the commission. Appraisal costs shall be borne by the local entity which holds title to the land.

(3) Any funds generated under a reimbursement under this section shall be deposited in the parkland acquisition account (~~(in the state general fund;)~~) which is hereby created in the state treasury. Moneys in this account are to be used solely for the purchase or acquisition of property for use as state park property by the commission, as directed by the legislature; all such funds shall be subject to legislative appropriation. All earnings of investments of balances in the parkland acquisition account shall be credited to the general fund.

Sec. 34. Section 2, chapter 210, Laws of 1971 ex. sess. as last amended by section 2, chapter 271, Laws of 1981 and RCW 43.51.280 are each amended to read as follows:

There is hereby created the trust land purchase account in the state ~~((general fund))~~ treasury. Any revenues accruing to this account shall be used for the purchase of the entire Heart Lake property described in RCW 43.51.270(3), to include all reasonable costs of acquisition, and a fee interest or such other interest in state trust lands presently used for park purposes as the state parks and recreation commission shall determine and to reimburse the state parks and recreation commission for the cost of collecting such fees beginning with the 1973-75 fiscal biennium. Any funds remaining in the account shall be used for the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks and for the maintenance and operation of state parks in the 1981-83 biennium. Thereafter, the funds shall not be used for such purposes until the money in the account satisfies the payment required to be made in the contract for sale of lands in section 1 of this chapter, the acquisition of the Heart Lake property, and those amounts necessary to pay for the remaining trust assets of timber situated on the lands described in section 1 on a schedule satisfactory to the board of natural resources. All earnings of investments of balances in the trust land purchase account shall be credited to the general fund.

Sec. 35. Section 3, chapter 209, Laws of 1975 1st ex. sess. as amended by section 3, chapter 11, Laws of 1982 and RCW 43.51.310 are each amended to read as follows:

There is hereby created the winter recreational program account in the (~~general fund~~) state treasury. Special winter recreational area parking permit fees collected under this chapter shall be remitted to the state treasurer to be deposited in the winter recreational program account and shall be appropriated only to the commission for nonsnowmobile winter recreation purposes including the administration, acquisition, development, operation, planning, and maintenance of winter recreation facilities and the development and implementation of winter recreation, safety, enforcement, and education programs. The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational program account. All earnings of investments of balances in the winter recreational program account shall be credited to the general fund.

Any public agency in this state may develop and implement winter recreation programs. The commission may make grants to public agencies and contract with any public or private agency or person to develop and implement winter recreation programs.

Sec. 36. Section 43.79.080, chapter 8, Laws of 1965 and RCW 43.79-.080 are each amended to read as follows:

There shall be in the state treasury a fund known and designated as the "University of Washington building account" (~~in the general fund~~).

Sec. 37. Section 43.79.201, chapter 8, Laws of 1965 as amended by section 2, chapter 135, Laws of 1965 ex. sess. and RCW 43.79.201 are each amended to read as follows:

All moneys in the state treasury to the credit of that fund now denoted as the C.E.P. & R.I. fund on and after March 20, 1961, and all moneys thereafter paid into the state treasury for or to the credit of such fund shall be and are hereby transferred to and placed in the charitable, educational, penal and reformatory institutions account, hereby created, in the state (~~general fund~~) treasury, into which fund there shall also be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893. All earnings of investments of balances in the charitable, educational, penal and reformatory institutions account shall be credited to the general fund.

Sec. 38. Section 43.79.330, chapter 8, Laws of 1965 as last amended by section 3, chapter 242, Laws of 1981 and RCW 43.79.330 are each amended to read as follows:

All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state (~~(general fund)~~) treasury, the creation of which is hereby authorized:

(1) Capitol building construction fund moneys, to the capitol building construction account;

(2) Cemetery fund moneys, to the cemetery account;

(3) Feed and fertilizer fund moneys, to the feed and fertilizer account;

(4) Forest development fund moneys, to the forest development account;

(5) Harbor improvement fund moneys, to the harbor improvement account;

(6) Millersylvania Park current fund moneys, to the Millersylvania Park current account;

(7) Puget Sound pilotage fund moneys, to the Puget Sound pilotage account;

(8) Real estate commission fund moneys, to the real estate commission account;

(9) Reclamation revolving fund moneys, to the reclamation revolving account;

(10) University of Washington building fund moneys, to the University of Washington building account; (~~and~~)

(11) State College of Washington building fund moneys, to the Washington State University building account;

(12) All earnings of investments of balances in the capitol building construction account, the cemetery account, the feed and fertilizer account, the harbor improvement account, the Millersylvania Park current account, the Puget Sound pilotage account, the real estate commission account, and the reclamation revolving account shall be credited to the general fund; and

(13) Except as provided in RCW 43.84.090, all earnings of investments of balances in the forest development account, the University of Washington building account, and the Washington State University building account shall be credited to these respective accounts.

Sec. 39. Section 43.79.335, chapter 8, Laws of 1965 and RCW 43.79-.335 are each amended to read as follows:

Upon and after June 30, 1961 the account (~~(within the general fund)~~) in the state treasury known as the "State College of Washington Building Account" shall be known and referred to as the "Washington State University Building Account." This section shall not be construed as effecting any

change in such fund other than the name thereof and as otherwise provided by law.

Sec. 40. Section 43.79.350, chapter 8, Laws of 1965 as amended by section 6, chapter 4, Laws of 1981 2nd ex. sess. and RCW 43.79.350 are each amended to read as follows:

There is established in the state (~~(general fund)~~) treasury a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account (~~(in the state general fund)~~).

Sec. 41. Section 18, chapter 16, Laws of 1983 1st ex. sess. and RCW 43.79.445 are each amended to read as follows:

There is established an account in the (~~(general fund under the jurisdiction of the state treasurer)~~) state treasury referred to as the "death investigations' account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in section 20, chapter 16, Laws of 1983 1st ex. sess. All earnings of investments of balances in the death investigations' account shall be credited to the general fund.

Moneys in the death investigations' account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The above-mentioned entities and individuals may submit billings to the state treasurer prior to December 31.

Sec. 42. Section 2, chapter 244, Laws of 1984 and RCW 43.79.450 are each amended to read as follows:

(1) The public works assistance account is hereby established in the (~~(general fund)~~) state treasury. At the beginning of each biennium after June 30, 1985, the state treasurer shall transfer from the general fund to the public works assistance account an amount of money which, when combined with money remaining in the account from the previous biennium excluding proceeds from the sale of bonds, will equal ten million dollars.

(2) Moneys in the public works assistance account may be spent only for payment of the principal of and interest on bonds issued under RCW 43.79.452, and other purposes related to loans under RCW 43.63A.200 as specified by legislative appropriation.

(3) Bonds for which revenues to the public works assistance account have been pledged shall not be issued if such bonds will cause the aggregate debt for which revenues to the public works assistance account will be pledged to exceed that amount for which payments of principal and interest

in any fiscal year will equal projected revenues to the public works assistance account for that fiscal year. However, bonds for which revenues to the public works assistance account have been pledged are general obligations of the state of Washington and shall pledge the full faith and credit of the state to payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

(4) All earnings of investments of balances in the public works assistance account shall be credited to the general fund.

Sec. 43. Section 43.83.020, chapter 8, Laws of 1965 and RCW 43.83-.020 are each amended to read as follows:

The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account (~~(of the general fund)~~) which is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation act of 1959, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. All earnings of investments of balances in the state building construction account shall be credited to the general fund.

Sec. 44. Section 3, chapter 127, Laws of 1972 ex. sess. and RCW 43-.83A.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be deposited in the state and local improvements revolving account hereby created in the (~~(general fund)~~) state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds.

Sec. 45. Section 3, chapter 128, Laws of 1972 ex. sess. and RCW 43-.83B.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of such proceeds, shall be deposited in the state and local improvements revolving account hereby created in the (~~(general fund)~~) state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds.

Sec. 46. Section 13, chapter 1, Laws of 1977 ex. sess. and RCW 43-.83B.360 are each amended to read as follows:

At the time the state finance committee determines to issue such bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 or a portion thereof, it may, pending the issuance thereof, issue in the name of

the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be deposited in the state emergency water projects revolving account, hereby created (~~in the general fund~~) in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the state emergency water projects bond redemption fund of 1977 in the state treasury created by RCW 43.83B.370. All earnings of investments of balances in the state emergency water projects revolving account shall be credited to the general fund.

Sec. 47. Section 3, chapter 129, Laws of 1972 ex. sess. and RCW 43.83C.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of such proceeds, shall be deposited in the state and local improvements revolving account hereby created in the (~~general fund~~) state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds.

Sec. 48. Section 3, chapter 130, Laws of 1972 ex. sess. and RCW 43.83D.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of such proceeds, shall be deposited in the state and local improvements revolving account in the (~~general fund~~) state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds.

Sec. 49. Section 3, chapter 125, Laws of 1975-'76 2nd ex. sess. and RCW 43.83H.030 are each amended to read as follows:

At the time the state finance committee determines to issue such bonds authorized in RCW 43.83H.010 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by this chapter shall be deposited in the state social and health services construction account (~~of the general fund~~) hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, Such portion

of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83H.050. All earnings of investments of balances in the state social and health services construction account shall be credited to the general fund.

Sec. 50. Section 4, chapter 224, Laws of 1979 ex. sess. and RCW 43.831.166 are each amended to read as follows:

Except for that portion of the proceeds required to pay bond anticipation notes under RCW 43.831.162, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.831.160 through 43.831.170, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account (~~of the general fund~~) in the state treasury. All of these proceeds shall be used exclusively for the purposes specified in RCW 43.831.160 through 43.831.170 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes. All earnings of investments of balances in the fisheries capital projects account shall be credited to the general fund.

NEW SECTION. Sec. 51. A new section is added to chapter 43.84 RCW to read as follows:

Except as provided in RCW 43.84.090, all earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

On or before July 20 of each year, the state treasurer shall distribute all earnings credited to the treasury income account as of June 30 to the funds for the fiscal year in which it was earned. Except as otherwise provided by statute, the state treasurer shall credit the various accounts and funds in the state treasury their proportionate share of earnings based upon each fund's average daily balance for the period: PROVIDED, That earnings on the balances of the forest reserve fund, the federal forest revolving fund, the liquor excise tax fund, the treasury income account, the suspense account, the undistributed receipts account, the state payroll revolving account, the agency vendor payment revolving fund, the local leasehold excise tax account, and the local sales and use tax account shall be credited to the state treasurer's service fund: PROVIDED FURTHER, That earnings on the balances of the tort claims revolving fund, the agency payroll revolving fund, the special fund salary and insurance contribution increase revolving fund and special fund semimonthly payroll revolving fund shall be credited to the state general fund.

Sec. 52. Section 2, chapter 280, Laws of 1981 and RCW 43.88.525 are each amended to read as follows:

A budget stabilization account is hereby created as an account in the ~~((general fund of the))~~ state treasury for the purposes set forth in RCW 43.88.520 through 43.88.540. There shall be deposited into the stabilization account the revenues described in RCW 43.88.530 and such other amounts as the legislature may from time to time direct to be deposited in the account. The governor's biennial budget document for the 1983-85 biennium and for each succeeding biennium shall contain a request for necessary transfers from the general fund to the budget stabilization account of those revenues identified in RCW 43.88.530. All earnings of investments of balances in the budget stabilization account shall be credited to the general fund.

Sec. 53. Section 4, chapter 5, Laws of 1965 as amended by section 110, chapter 158, Laws of 1979 and RCW 43.99.040 are each amended to read as follows:

There is created the marine fuel tax refund account in the ~~((general fund))~~ state treasury. All earnings of investments of balances in the marine fuel tax refund account shall be credited to the general fund. From time to time, but at least once each biennium, the director of licensing shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be tax on marine fuel. The state treasurer shall refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter 82.36 RCW and RCW 43.99.050, except that he shall not refund and place in the marine fuel tax refund account for any period for which a determination has been made pursuant to RCW 43.99.030 more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to him as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period.

Sec. 54. Section 6, chapter 5, Laws of 1965 as amended by section 1, chapter 62, Laws of 1967 ex. sess. and RCW 43.99.060 are each amended to read as follows:

There is created the outdoor recreation account in the ~~((general fund))~~ state treasury, in which shall be deposited all moneys received from the marine fuel tax refund account pursuant to RCW 43.99.070, the proceeds of the bond issue authorized by chapter 12, Laws of 1963, extraordinary session, and any moneys made available to the state of Washington by the federal government for outdoor recreation not specifically designated for another fund or agency. All earnings of investments of balances in the outdoor recreation account shall be credited to the general fund.

Grants, gifts, or other financial assistance awarded or designated for a particular purpose, or proceeds received from public bodies as administrative cost contributions, may be received and, when appropriated by the legislature, may be expended in accordance with the general budget and accounting act.

Sec. 55. Section 7, chapter 221, Laws of 1979 ex. sess. and RCW 43-99C.040 are each amended to read as follows:

The proceeds from the sale of the bonds and bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all of the moneys which the state finance committee or the state department of social and health services may direct the state treasurer to deposit therein, shall be deposited in the 1979 handicapped facilities construction account (~~(in the state general fund,)~~) hereby created in the state treasury: **PROVIDED**, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and the interest on any outstanding bond anticipation notes, together with accrued interest on the bonds received from the purchasers upon their delivery, shall be deposited in the 1979 handicapped facilities bond retirement fund. All earnings of investments of balances in the 1979 handicapped facilities construction account shall be credited to the general fund.

Sec. 56. Section 3, chapter 159, Laws of 1980 and RCW 43.99F.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 hereby created in the (~~(general fund)~~) state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. All earnings of investments of balances of such account shall be credited to the state and local improvements revolving account, waste disposal facilities, 1980.

Sec. 57. Section 3, chapter 212, Laws of 1977 ex. sess. as last amended by section 1, chapter 127, Laws of 1981 and RCW 43.101.210 are each amended to read as follows:

(1) Costs of criminal justice training shall be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.

(2) In each instance of bail forfeiture or monetary penalty paid in lieu of a court appearance attendant to any violation of a law of this state or an ordinance of a city or county except an ordinance relating to vehicles unlawfully left or parked, an assessment which shall be in addition to such bail forfeited or penalty paid shall be collected and forwarded within thirty days of receipt of such assessment by the clerk of the court, or the county treasurer, to the state treasurer to be deposited in an account within the state (~~(general fund)~~) treasury to be known as the criminal justice training account, hereby created, funds from which shall be appropriated by law to the Washington state criminal justice training commission as established by chapter 43.101 RCW: **PROVIDED**, That funds in the criminal justice training account may be transferred to the state general fund by statute prior to June 30, 1981. The amount of the assessment shall be as follows:

(a) When forfeiture or penalty is ten dollars to nineteen dollars and ninety-nine cents, four dollars;

(b) When forfeiture or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, seven dollars;

(c) When forfeiture or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, ten dollars;

(d) When forfeiture or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, fifteen dollars; and

(e) When forfeiture or penalty is one hundred dollars or more, twenty dollars.

(3) When any deposit of bail is made for a violation to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (2) of this section.

(4) When bail is forfeited or a penalty paid, the assessment prescribed in this section shall be forwarded to the state treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned.

(5) All earnings of investments of balances in the criminal justice training account shall be credited to the general fund.

Sec. 58. Section 3, chapter 158, Laws of 1981 and RCW 43.140.030 are each amended to read as follows:

There is created the geothermal account in the (~~general fund of the~~) state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW. All earnings of investments of balances in the geothermal account shall be credited to the general fund.

All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) shall be deposited in the geothermal account (~~of the general fund~~) in the state treasury immediately upon receipt.

Sec. 59. Section 1, chapter 158, Laws of 1963 as amended by section 323, chapter 258, Laws of 1984 and RCW 46.08.172 are each amended to read as follows:

There is hereby established an account (~~within the general fund of~~) in the state treasury to be known as the "state capitol vehicle parking account". All unpledged parking rental income collected by the department of general administration from rental of parking space on the capitol grounds and the east capitol site shall be deposited in the "state capitol vehicle parking account". All earnings of investments of balances in the state capitol vehicle parking account shall be credited to the general fund.

The "state capitol vehicle parking account" shall be used to pay costs incurred in the operation, maintenance, regulation and enforcement of vehicle parking and parking facilities at the state capitol.

Sec. 60. Section 16, chapter 47, Laws of 1971 ex. sess. as last amended by section 9, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.110 are each amended to read as follows:

The moneys collected by the department as ORV use permit fees shall be distributed from time to time but at least once a year in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter: PROVIDED, That such retention shall never exceed eighteen percent of fees collected.

(2) Twenty percent of the moneys shall be placed in the ORV account, which is hereby established, in the (~~(general fund)~~) state treasury and shall be administered by the department of natural resources as ORV moneys. The department of natural resources shall use these moneys to develop a state-wide program of ORV user education and information. Any portion of these moneys not used to develop an ORV user education and information program shall be deposited in the outdoor recreation account and shall be distributed by the interagency committee for outdoor recreation under RCW 46.09.240. All earnings of investments of balances in the ORV account shall be credited to the general fund.

(3) The remaining moneys shall be credited to the outdoor recreation account of the (~~(general fund)~~) state treasury as ORV moneys and shall be distributed by the interagency committee for outdoor recreation as specified in RCW 46.09.240. All earnings of investments of balances in the outdoor recreation account shall be credited to the general fund.

Sec. 61. Section 7, chapter 182, Laws of 1979 ex. sess. as amended by section 6, chapter 17, Laws of 1982 and RCW 46.10.075 are each amended to read as follows:

There is created a snowmobile account within the (~~(general fund)~~) state treasury. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter shall be deposited in the snowmobile account and shall be appropriated only to the state parks and recreation commission for the administration and coordination of this chapter. All earnings of investments of balances in the snowmobile account shall be credited to the general fund.

Sec. 62. Section 7, chapter 39, Laws of 1963 as amended by section 5, chapter 218, Laws of 1969 ex. sess. and RCW 46.81.060 are each amended to read as follows:

There is hereby created the traffic safety education account in the (~~(general fund of the)~~) state treasury (formerly named the driver education account) to the credit of which shall be deposited all moneys directed by law to be credited thereto. All expenses incurred by the superintendent of

public instruction in administering this chapter and all payments by the superintendent of public instruction to school districts as authorized by this chapter shall be borne by appropriations from this account. All earnings of investments of balances in the traffic safety education account shall be credited to the general fund.

Sec. 63. Section 3, chapter 207, Laws of 1967 as amended by section 144, chapter 3, Laws of 1983 and RCW 47.68.236 are each amended to read as follows:

There is hereby created in the (~~general fund of the state of Washington~~) state treasury an account to be known as the aircraft search and rescue, safety, and education (~~fund~~) account. All moneys received by the department under RCW 47.68.233 shall be deposited in such account. All earnings of investments of balances in the aircraft search and rescue, safety, and education account shall be credited to the general fund.

Sec. 64. Section 6, chapter 303, Laws of 1983 and RCW 47.76.030 are each amended to read as follows:

(1) The essential rail assistance account is hereby created in the state (~~general fund~~) treasury. Moneys in the account may be appropriated only for the purposes specified in this section.

(2) Moneys in the account may be distributed to county rail districts and port districts for the purpose of:

(a) Acquiring, maintaining, or improving branch rail lines; or

(b) Operating railroad equipment necessary to maintain essential rail service.

(3) County rail districts and port districts may grant franchises to private railroads for the right to operate on lines acquired, repaired, or improved under this chapter.

(4) Moneys distributed under this section shall not exceed eighty percent of the cost of the service or project undertaken. At least twenty percent of the cost shall be provided by the county, port district, or other local sources.

(5) The amount distributed under this section shall be repaid to the state by the county rail district or port district. The repayment shall occur within ten years of the distribution of the moneys and shall be deposited in the essential rail assistance account. The repayment schedule and rate of interest, if any, shall be set at the time of the distribution of the moneys.

(6) All earnings of investments of balances in the essential rail assistance account shall be credited to the general fund.

Sec. 65. Section 6, chapter 165, Laws of 1982 as amended by section 1, chapter 272, Laws of 1983 and RCW 58.24.060 are each amended to read as follows:

There is created in the (~~general fund of the~~) state treasury the surveys and maps account which shall be a separate account consisting of

funds received or collected under chapters 58.22 and 58.24 RCW, moneys appropriated to it by law, and moneys deposited in the account from the sale of surveys, maps, map data, publications, and photographs. This account shall be used exclusively by the department of natural resources for carrying out the purposes and provisions of chapters 58.22 and 58.24 RCW. Appropriations from the account shall be expended for no other purposes. All earnings of investments of balances in the surveys and maps account shall be credited to the general fund.

Sec. 66. Section 4, chapter 34, Laws of 1982 as amended by section 4, chapter 1, Laws of 1983 2nd ex. sess. and RCW 67.40.040 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 67.40.030, earnings from the investment of the proceeds, proceeds of the tax imposed under RCW 67.40.090, and operating revenues of the state convention and trade center shall be deposited in the state convention and trade center account hereby created in the ~~((general fund;))~~ state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

Moneys in the account shall be used exclusively for the following purposes in the following priority:

(1) For reimbursement of the state general fund under RCW 67.40.060;

(2) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(3) For acquisition, design, and construction of the state convention and trade center;

(4) For operation and promotion of the center;

(5) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center;

(6) To establish a subaccount of up to fifty million dollars for expansion or renovation of the center;

(7) For early retirement of the bonds issued under RCW 67.40.030; and

(8) To reduce or eliminate the tax imposed under RCW 67.40.090.

PROVIDED, That no proceeds from the sale of bonds or earnings from the investment of the proceeds shall be used to fund subsection (4) or (8) of this section.

Sec. 67. Section 18, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.170 are each amended to read as follows:

The commission shall biennially prepare a budget which shall include its estimated income and expenditures for administration and operation for the biennium, to be submitted to the governor for transmittal to the legislature for approval.

Expenses of the commission shall be financed by assessment against hospitals in an amount to be determined biennially by the commission, but

not to exceed four one-hundredths of one percent of each hospital's gross operating costs to be levied and collected from and after July 1, 1973 for the provision of hospital services for its last fiscal year ending on or before June 30th of the preceding calendar year. Budgetary requirements in excess of that limit may be financed by a general fund appropriation by the legislature. All moneys collected are to be deposited by the state treasurer in the hospital commission account (~~(in the general fund)~~) which is hereby created in the state treasury. All earnings of investments of balances in the hospital commission account shall be credited to the general fund.

Any amounts raised by the collection of assessments from hospitals provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the commission in succeeding years.

Sec. 68. Section 18, chapter 307, Laws of 1971 ex. sess. as amended by section 3, chapter 277, Laws of 1983 and RCW 70.93.180 are each amended to read as follows:

There is hereby created an account within the (~~(general fund)~~) state treasury to be known as the "litter control account". All assessments, fines, bail forfeitures, and other funds collected or received pursuant to this chapter shall be deposited in the litter control account and used for the administration and implementation of this chapter except as required to be otherwise distributed under RCW 70.93.070. All earnings of investments of balances in the litter control account shall be credited to the general fund.

Sec. 69. Section 7, chapter 193, Laws of 1973 1st ex. sess. and RCW 70.94.656 are each amended to read as follows:

It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Prior to the issuance of any permit for such burning under RCW 70.94.650, there shall be collected a fee not to exceed fifty cents per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in a special grass seed burning research account, hereby created, in the (~~(general fund)~~) state treasury. All earnings of investments of balances in the special grass seed burning research account shall be credited to the general fund. The department shall allocate moneys annually from this account for the support of any approved study or studies as provided for

in this subsection. For the conduct of any such study or studies, the department may contract with public or private entities: PROVIDED, That whenever the department of ecology shall conclude that sufficient reasonably available alternates to open burning have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved, and any money remaining therein shall revert to the general fund.

(2) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(3) Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(4) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

Sec. 70. Section 4, chapter 70, Laws of 1983 1st ex. sess. and RCW 70.105.180 are each amended to read as follows:

All fines and penalties collected under this chapter shall be deposited in the hazardous waste control and elimination account, which is hereby created in the state (~~(general fund)~~) treasury. Moneys in the account collected from fines and penalties shall be expended exclusively by the department of ecology for the purposes of this act, subject to legislative appropriation. Other sources of funds deposited in this account may also be used for the purposes of this act. All earnings of investments of balances in the hazardous waste control and elimination account shall be credited to the general fund.

Sec. 71. Section 3, chapter 108, Laws of 1979 ex. sess. as amended by section 2, chapter 279, Laws of 1983 and RCW 72.72.030 are each amended to read as follows:

(1) There is hereby created, in the (~~(general fund)~~) state treasury, an institutional impact account. The secretary of social and health services may reimburse political subdivisions for criminal justice costs incurred directly as a result of crimes committed by offenders residing in an institution as defined herein under the jurisdiction of the secretary of social and health

services. Such reimbursement shall be made to the extent funds are available from the (~~general fund~~) institutional impact account. Reimbursements shall be limited to law enforcement, prosecutorial, judicial, and jail facilities costs which are documented to be strictly related to the criminal activities of the offender.

(2) The secretary of corrections may reimburse political subdivisions for criminal justice costs incurred directly as a result of crimes committed by offenders residing in an institution as defined herein under the jurisdiction of the secretary of corrections. Such reimbursement shall be made to the extent funds are available from the (~~general fund~~) institutional impact account. Reimbursements shall be limited to law enforcement, prosecutorial, judicial, and jail facilities costs which are documented to be strictly related to the criminal activities of the offender.

(3) All earnings of investments of balances in the institutional impact account shall be credited to the general fund.

Sec. 72. Section 23, chapter 194, Laws of 1983 and RCW 74.18.230 are each amended to read as follows:

(1) There is established in the (~~general fund~~) state treasury an account known as the business enterprises revolving (~~fund~~) account.

(2) The net proceeds from any vending machine operation in a public building, other than an operation managed by a licensee, shall be made payable to the business enterprises revolving fund. Net proceeds, for purposes of this section, means the gross amount received less the costs of the operation, including a fair minimum return to the vending machine owner, which return shall not exceed a reasonable amount to be determined by the department.

(3) All moneys in the business enterprises revolving fund shall be expended only for development and expansion of locations, equipment, management services, and payments to licensees in the business enterprises program.

(4) The business enterprises program shall be supported by the business enterprises revolving fund and by income which may accrue to the department pursuant to the federal Randolph-Sheppard Act.

(5) Vocational rehabilitation funds may be spent in connection with the business enterprises program for training persons to become licensees and for other services that are required to complete an individual written rehabilitation program.

(6) All earnings of investments of balances in the business enterprises revolving account shall be credited to the business enterprises revolving account.

Sec. 73. Section 3, chapter 308, Laws of 1977 ex. sess. as amended by section 163, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.48.030 are each amended to read as follows:

The proceeds from the sale of bonds authorized by this chapter shall be deposited in the salmon enhancement construction account hereby created in the (~~(general fund)~~) state treasury and shall be used exclusively for the purpose specified in RCW 75.48.020 and for payment of the expenses incurred in the issuance and sale of the bonds. All earnings of investments of balances in the salmon enhancement construction account shall be credited to the general fund.

Sec. 74. Section 8, chapter 207, Laws of 1971 ex. sess. as last amended by section 2, chapter 299, Laws of 1983 and RCW 76.04.515 are each amended to read as follows:

There is created a landowner contingency forest fire suppression account which shall be a separate account in the (~~(general fund)~~) state treasury. This account shall be for the purpose of paying emergency fire costs incurred or approved by the department in the suppression of forest fires. When a determination is made that the fire was started by other than a participating landowner operation, moneys expended from this account in the suppression of such fire shall be recovered from such general fund appropriations as may be available for emergency fire suppression costs. Moneys spent from this account shall be by appropriation. The department shall transmit to the state treasurer for deposit in the landowner contingency forest fire suppression account any moneys paid out of said account which are later recovered, less reasonable costs of recovery, which moneys may be expended for purposes set forth herein during the current biennium, without reappropriation.

This account shall be established and renewed by a special forest fire suppression account assessment paid by participating forest landowners at rates to be established by the department, but not to exceed ten cents per acre per year for such period of years as may be necessary to establish and thereafter reestablish a balance in said account of two million dollars: PROVIDED, That the department may establish a minimum assessment for ownership parcels containing less than thirty acres. The maximum assessment for these parcels shall not exceed the fees levied on a thirty acre parcel. There shall be no assessment on each parcel of privately owned lands of less than two acres or on each parcel of tax exempt lands of less than ten acres. The assessments with respect to forest lands in western and eastern Washington may differ to equitably distribute the assessment based on emergency fire suppression cost experience necessitated by participating landowner operations. Amounts assessed for this account shall be a lien upon the forest lands with respect to which the assessment is made, and may be collected as directed by the department in the same manner as forest fire protection assessments. This account shall be held by the state treasurer who is authorized to invest so much of said account as is not necessary to meet current needs. Any interest earned on moneys from said account

shall be deposited in and remain a part of the account, and shall be computed as part of the same in determining the balance thereof. Interfund loans to and from this account are authorized at the then current rate of interest as determined by the state treasurer, provided that the effect of the loan is considered for purposes of determining the assessments. Payment of emergency costs from this account shall in no way restrict the right of the department to recover costs pursuant to RCW 76.04.390 as now or hereafter amended, or other laws.

When the department determines that a forest fire was started in the course of or as a result of a participating landowner operation, it shall notify the forest fire advisory board of such determination. Such determination shall be final, unless, within ninety days of such notification, the forest fire advisory board or any interested party, serves a request for a hearing before the department. Such hearing shall constitute a contested case under chapter 34.04 RCW and any appeal therefrom shall be to the superior court of Thurston county.

Sec. 75. Section 6, chapter 154, Laws of 1923 as last amended by section 1, chapter 159, Laws of 1977 ex. sess. and RCW 76.12.110 are each amended to read as follows:

There is created a forest development account in the state (~~(general fund)~~) treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the account shall be pledged for the purpose of paying interest and principal on the bonds issued by the board, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the board.

Appropriations may be made by the legislature from the forest development account to the department of natural resources for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands.

Sec. 76. Section 7, chapter 69, Laws of 1909 as last amended by section 37, chapter 106, Laws of 1973 and RCW 79.24.030 are each amended to read as follows:

The board of natural resources and the state capitol committee may employ such cruisers, draughtsmen, engineers, architects or other assistants as may be necessary for the best interests of the state in carrying out the provisions of this act, and all expenses incurred by the board and committee, and all claims against the (~~(general fund)~~) capitol building construction account shall be audited by the state capitol committee and

presented in vouchers to the state treasurer, who shall draw a warrant therefor against the (~~(general fund)~~) capitol building construction account as herein provided or out of any appropriation made for such purpose.

Sec. 77. Section 5, chapter 69, Laws of 1909 as last amended by section 44, chapter 257, Laws of 1959 and RCW 79.24.060 are each amended to read as follows:

The proceeds of such sale of capitol building lands, or the timber or other materials shall be paid into the (~~(general fund)~~) capitol building construction account which is hereby established in the state treasury to be used as in this act provided. All contracts for the construction of capitol buildings shall be let after notice for proposals or bids have been advertised for at least four consecutive weeks in at least three newspapers of general circulation throughout the state.

Sec. 78. Section 8, chapter 69, Laws of 1909 as amended by section 46, chapter 257, Laws of 1959 and RCW 79.24.085 are each amended to read as follows:

All sums of money received from sales shall be paid into the (~~(general fund)~~) capitol building construction account in the state treasury, and are hereby appropriated for the purposes of this act.

Sec. 79. Section 9, chapter 167, Laws of 1961 as last amended by section 24, chapter 221, Laws of 1984 and RCW 79.24.580 are each amended to read as follows:

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be distributed as follows: (1) Forty percent shall be deposited in the aquatic lands enhancement account (~~(of the general fund)~~) which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects; and (2) the remainder shall be deposited in the capitol purchase and development account (~~(of the general fund, the creation of)~~) in the state treasury which is hereby authorized or, in the event that revenue bonds are issued as authorized by RCW 79.24.630 through 79.24.647, into the state building bond redemption fund pursuant to RCW 79.24.638. All earnings of investments of balances in the aquatic lands enhancement account and the capitol purchase and development account shall be credited to the general fund.

Sec. 80. Section 2, chapter 178, Laws of 1961 as amended by section 2, chapter 4, Laws of 1981 and RCW 79.64.020 are each amended to read as follows:

A resource management cost account in the state (~~(general fund)~~) treasury is hereby created to be used solely for the purpose of defraying the costs and expenses necessarily incurred by the department in managing and administering public lands and the making and administering of leases, sales, contracts, licenses, permits, easements, and rights of way as authorized under the provisions of this title. Appropriations from the account to the department shall be expended for no other purposes. Funds in the account may be appropriated or transferred by the legislature for the benefit of the trust from which the funds were derived.

Sec. 81. Section 6, chapter 94, Laws of 1970 ex. sess. as last amended by section 10, chapter 4, Laws of 1981 2nd ex. sess. and RCW 82.14.050 are each amended to read as follows:

The counties, metropolitan municipal corporations and cities shall contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter which is collected by the department of revenue shall be deposited by the state department of revenue in the local sales and use tax account hereby created in the (~~(general fund)~~) state treasury. Moneys in the local sales and use tax account may be spent only for distribution to counties, metropolitan municipal corporations, and cities imposing a sales and use tax. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter.

Sec. 82. Section 21, chapter 49, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 225, Laws of 1984 and RCW 82.14.200 are each amended to read as follows:

There is created in the state (~~(general fund)~~) treasury a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.150(2). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

The department of revenue shall establish a governmental price index as provided in this subsection. The base year for the index shall be the end of the third quarter of 1982. Prior to November 1, 1983, and prior to each November 1st thereafter, the department of revenue shall establish another index figure for the third quarter of that year. The department of revenue may use the implicit price deflators for state and local government purchases of goods and services calculated by the United States department of commerce to establish the governmental price index. Beginning on January 1, 1984, and each January 1st thereafter, the one hundred fifty thousand dollar base figure in this subsection shall be adjusted in direct proportion to the percentage change in the governmental price index from 1982 until the year before the adjustment. Distributions made under this subsection for 1984 and thereafter shall use this adjusted base amount figure.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (6) and (7) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (2) of this section, a third distribution from the county sales and use tax equalization account. The

distribution to each qualifying county shall be equal to the distribution to the county under subsection (2) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the total distribution under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Subsequent to the distributions under subsection (4) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a fourth distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(6) Revenues distributed under this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsections (3) through (5) of this section cannot be made because of this limitation, then distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties.

(7) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsections (3) through (5) of this section, then the distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) through (5) of this section to the counties.

(8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) of this section, then the additional revenues shall be credited and transferred to the state general fund.

(9) All earnings of investments of balances in the county sales and use tax equalization account shall be credited to the general fund.

Sec. 83. Section 22, chapter 49, Laws of 1982 1st ex. sess. as amended by section 2, chapter 225, Laws of 1984 and RCW 82.14.210 are each amended to read as follows:

There is created in the state (~~(general fund)~~) treasury a special account to be known as the "municipal sales and use tax equalization account." Into this account shall be placed such revenues as are provided under RCW 82.44.150(3)(b). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for each city and the state-wide weighted average per capita level of revenues for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city not imposing the sales and use tax under RCW 82.14.030(2) an amount from the municipal sales and use tax equalization account equal to the amount distributed to the city under RCW 82.44.150(3)(a) multiplied by thirty-five sixty-fifths.

(3) Subsequent to the distributions under subsection (2) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for all cities as determined by the department of revenue under subsection (1) of this section, an amount from the municipal sales and use tax equalization account sufficient, when added to the per capita level of revenues received the previous calendar year by the city, to equal seventy percent of the state-wide weighted average per capita level of revenues for all cities determined under subsection (1) of this section, subject to reduction under subsection (5) of this section.

(4) Subsequent to the distributions under subsection (3) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a third distribution from the municipal sales and use tax equalization account. The distribution to each qualifying city shall be equal to the distribution to the city under subsection (3) of this section, subject to the reduction under subsection (5) of this section. To qualify for the distributions under this subsection, the city must impose the tax under RCW 82.14.030(2) for the entire calendar year. Cities imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) If inadequate revenues exist in the municipal sales and use tax equalization account to make the distributions under subsection (3) or (4) of this section, then the distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying cities. At such time during the year as additional funds accrue to the municipal sales and use tax equalization account, additional distributions shall be made under subsections (3) and (4) of this section to the cities.

(6) If the level of revenues in the municipal sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (4) of this section, then the additional revenues shall be apportioned among the several cities within the state ratably on the basis of population as last determined by the office of financial management: PROVIDED, That no such distribution shall be made to those cities receiving a distribution under subsection (2) of this section.

(7) For a city or town initially incorporated on or after January 1, 1983, at the time distributions are made under subsection (3) of this section, the state treasurer shall place into a separate designated account for such city or town a pro rata amount of the revenues received under RCW 82.44.150(3)(b) equal to the city's or town's population multiplied by the amount of equalization funds to which the city or town would be entitled if its per capita yield the previous calendar year were zero. Such account shall take effect on January 1st of the first full calendar year during which the city or town imposes the taxes authorized by RCW 82.14.030(1) and shall cease to exist on December 31st of that year.

(8) All earnings of investments of balances in the municipal sales and use tax equalization account shall be credited to the general fund.

At the time that sales and use tax distributions are made pursuant to RCW 82.14.060, the revenues in such designated account shall be added to the city's or town's sales and use tax distributions so as to provide to such city or town an amount which reflects what such jurisdiction's entitlement from the municipal sales and use tax equalization account would have been if the actual distributions of sales and use tax revenues to such city or town had been received the previous full calendar year. Any excess revenues remaining in such designated account upon its expiration shall be apportioned according to subsection (6) of this section. If the department of revenue determines during the year that any funds in the designated account are not necessary for the purposes of distribution under this subsection, the department may deposit those funds in the municipal sales and use tax equalization account to be apportioned according to subsection (6) of this section.

Sec. 84. Section 8, chapter 61, Laws of 1975-'76 2nd ex. sess. as amended by section 8, chapter 4, Laws of 1981 2nd ex. sess. and RCW 82-.29A.080 are each amended to read as follows:

The counties and cities shall contract, prior to the effective date of an ordinance imposing a leasehold excise tax, with the department of revenue

for administration and collection. The department of revenue shall deduct a percentage amount, as provided by such contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by RCW 82.29A.040 which is collected by the department of revenue shall be deposited by the state department of revenue in the local leasehold excise tax account hereby created in the (~~general fund~~) state treasury. Moneys in the local leasehold excise tax account may be spent only for distribution to counties and cities imposing a leasehold excise tax.

Sec. 85. Section 33, chapter 7, Laws of 1983 as last amended by section 607, chapter 285, Laws of 1984 and RCW 82.32.400 are each amended to read as follows:

The revenue accrual account is hereby created in the state (~~general fund~~) treasury. At the close of each fiscal biennium, the state treasurer shall transfer the balance in the state general fund, other than amounts re-appropriated for the next fiscal biennium, to this account. Moneys in this account may only be spent after appropriation by statute for the purpose of decreasing the unfunded liability of a state retirement system or, during the 1983-1985 fiscal biennium, for the purpose of discharging obligations which the legislature determines are correctly chargeable to a prior biennium. All earnings of investments of balances in the revenue accrual account shall be credited to the general fund.

Sec. 86. Section 9, chapter 10, Laws of 1967 ex. sess. as amended by section 8, chapter 25, Laws of 1982 1st ex. sess. and RCW 82.42.090 are each amended to read as follows:

All moneys collected by the director from the aircraft fuel excise tax as provided in RCW 82.42.020 shall be transmitted to the state treasurer and shall be credited to the aeronautics account (~~of the state general fund,~~) hereby created in the state treasury. Moneys collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 shall be transmitted to the state treasurer and credited to the state general fund. All earnings of investments of balances in the aeronautics account shall be credited to the general fund.

Sec. 87. Section 2, chapter 204, Laws of 1984 and RCW 84.33.041 are each amended to read as follows:

(1) An excise tax is imposed on every person engaging in this state in business as a harvester of timber on privately or publicly owned land. The tax is equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the rate provided in this chapter.

(2) A credit is allowed against the tax imposed under this section for any tax paid under RCW 84.33.051.

(3) Moneys received as payment for the tax imposed under this section and RCW 84.33.051 shall be deposited in the timber tax distribution account hereby established in the state (~~(general fund))~~ treasury.

(4) All earnings of investments of balances in the timber tax distribution account shall be credited to the general fund.

Sec. 88. Section 1, chapter 212, Laws of 1984 and RCW 86.26.007 are each amended to read as follows:

The flood control assistance account is hereby established in the (~~(general fund))~~ state treasury. At the beginning of each biennium after June 30, 1985, the state treasurer shall transfer from the general fund to the flood control assistance account an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars. Moneys in the flood control assistance account may be spent only after appropriation for a specified list of projects under this chapter. All earnings of investments of balances in the flood control assistance account shall be credited to the general fund.

NEW SECTION. Sec. 89. On and after the effective date of this act all accounts heretofore or hereafter created in the state general fund shall be designated and treated as accounts in the state treasury. Unless otherwise designated by statute, all earnings on balances of such accounts shall be credited to the general fund.

NEW SECTION. Sec. 90. The following acts or parts of acts are each repealed:

(1) Section 43.84.100, chapter 8, Laws of 1965 and RCW 43.84.100;

(2) Section 43.84.110, chapter 8, Laws of 1965, section 2, chapter 95, Laws of 1973, section 2, chapter 17, Laws of 1977 and RCW 43.84.110; and

(3) Section 2, chapter 72, Laws of 1971 ex. sess., section 1, chapter 27, Laws of 1973, section 1, chapter 17, Laws of 1977, section 6, chapter 9, Laws of 1981 and RCW 43.85.241.

NEW SECTION. Sec. 91. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate April 9, 1985.

Passed the House March 27, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 58

[Substitute Senate Bill No. 3350]

SCHOOL DISTRICTS—COOPERATIVE PROGRAMS AND SERVICES

AN ACT Relating to cooperative programs and services between or among school districts; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The office of the superintendent of public instruction is hereby authorized to establish pilot projects for up to five years to encourage the joint operation of programs, services, and the sharing of administrative costs between small school districts.

Proposed projects shall provide for adequate staffing and evaluation and shall demonstrate a likelihood that they will reduce costs.

NEW SECTION. Sec. 2. The office of the superintendent of public instruction may adopt rules waiving a provision of law to remove any financial disincentives to the cooperative projects set forth in section 1 of this act limited to those projects, including but not limited to, the following:

(1) Eliminating positions and salary and compensation for the purpose of determining compliance with salary lid or fair share requirements;

(2) Modifying the legislative evaluation and accountability program documents to reflect necessary position changes; and

(3) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, determining that the affected students are attending school in the district in which they reside for the purposes of RCW 28A.41.130 and 28A.41.140 and chapter 28A.44 RCW.

NEW SECTION. Sec. 3. Washington State University may provide technical assistance to local school districts participating in pilot projects under sections 1 and 2 of this act. School districts selected to participate in the pilot projects shall submit a preliminary report by September 1, 1986, and a final report by September 1, 1989, to the office of the superintendent of public instruction on the results of their cooperative efforts. The superintendent of public instruction shall review the projects approved under sections 1 and 2 of this act, shall present a preliminary report on January 1, 1987, to the legislature, and shall present findings and recommendations about the cost effectiveness of cooperative efforts among small school districts to the legislature by December 31, 1989.

NEW SECTION. Sec. 4. This act shall expire on September 1, 1990.

Passed the Senate March 16, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 59

[Engrossed Senate Bill No. 4143]

SCHOOL DISTRICTS—STUDENT TRANSPORTATION ALLOCATIONS

AN ACT Relating to student transportation allocations; and amending RCW 28A.41.520 and 28A.41.525.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 265, Laws of 1981 as last amended by section 5, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.41.520 are each amended to read as follows:

Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.41.505. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; handicapped student load; and small fleet maintenance.

(2) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.24-.055 for services provided for in RCW 28A.41.505 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the ((student mile)) allocation rates to be used the following year.

Sec. 2. Section 5, chapter 265, Laws of 1981 as last amended by section 6, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.41.525 are each amended to read as follows:

The superintendent shall notify districts of their student transportation allocation before ((December)) January 15th. If the number of eligible students in a school district changes ten percent or more from the October report, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the

superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.48.010, as now or hereafter amended. Such allocation payments may be based on estimated amounts for payments to be made in September, October, November, ~~((and))~~ December, and January. ~~((For the 1982-83 school year, no school district shall receive a reduction or increase in funds of over three percent of what it received the previous year as adjusted to its proportional share of funds appropriated by the legislature for 1982-83 transportation services.))~~

Passed the Senate March 21, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 60

[Senate Bill No. 3204]

VETERANS' DAY—SCHOOL OBSERVANCE ACTIVITIES

AN ACT Relating to school programs in observance of Veterans' Day; and amending RCW 28A.02.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 15, Laws of 1970 ex. sess. as last amended by section 2, chapter 120, Laws of 1977 ex. sess. and RCW 28A.02.070 are each amended to read as follows:

~~((On))~~ During the school ~~((day))~~ week preceding the eleventh day of November of each year, there shall be presented in each common school as defined in RCW 28A.01.060 ~~((a program))~~ educational activities suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of ~~((such program))~~ the activities approximating at least sixty minutes ~~((in length))~~ total throughout the week shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of ~~((such programs))~~ these activities if such aid be solicited.

Passed the Senate February 5, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 61

[Senate Bill No. 3322]

WASHINGTON STATE UNIVERSITY—UNIVERSITY OF WASHINGTON—
BOARD OF REGENTS INCREASED

AN ACT Relating to boards of regents at institutions of higher education; and amending RCW 28B.20.100 and 28B.30.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28B.20.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 103, Laws of 1979 ex. sess. and RCW 28B.20.100 are each amended to read as follows:

The governance of the University of Washington shall be vested in a board of regents to consist of ~~((seven))~~ nine members. They shall be appointed by the governor with the consent of the senate, and shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified. ~~((Four))~~ Five members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy, or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year.

Sec. 2. Section 28B.30.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 103, Laws of 1979 ex. sess. and RCW 28B.30.100 are each amended to read as follows:

The governance of Washington State University shall be vested in a board of regents to consist of ~~((seven))~~ nine members. They shall be appointed by the governor, by and with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. ~~((Four))~~ Five members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year.

Each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, or with a surety company licensed to do business within the state, in the penal

sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such regent: PROVIDED, That the university shall pay any fees incurred for any such bonds for their board members.

Passed the Senate February 14, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 62

[Engrossed Senate Bill No. 3782]

WASHINGTON STATE HONORS AWARDS PROGRAM FOR HIGH SCHOOL STUDENTS

AN ACT Relating to the Washington state honors awards program; adding new sections to chapter 28A.03 RCW; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The Washington state honors awards program is hereby established for the purpose of promoting academic achievement among high school students enrolled in public or approved private high schools by recognizing outstanding achievement of students in academic core subjects. This program shall be voluntary on the part of each school district and each student enrolled in high school.

NEW SECTION. Sec. 2. The Washington state honors awards program shall include student achievement in both verbal and quantitative areas, as measured by the Washington precollege test, and shall include student performance in the academic core areas of English, mathematics, science, social studies, and foreign language. The performance level in such academic core subjects shall be determined by grade point averages, numbers of credits earned, and courses enrolled in during the beginning of the senior year.

NEW SECTION. Sec. 3. The superintendent of public instruction shall adopt rules for the establishment and administration of the Washington state honors awards program. The rules shall establish: (1) Minimum achievement scores, (2) academic subject performance levels, (3) timelines for participating school districts to notify students of the opportunity to participate, (4) procedures for the administration of the program, and (5) the procedures for providing the appropriate honors award designation.

NEW SECTION. Sec. 4. The superintendent of public instruction shall provide participating high schools with the necessary materials for conferring honors. The superintendent of public instruction shall require participating high schools to encourage local representatives of business and

industry to recognize students in their communities who receive an honors designation based on the Washington state honors awards program.

NEW SECTION. Sec. 5. The sum of forty-one thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of the development and administration of the Washington state honors program under this act.

NEW SECTION. Sec. 6. Sections 1 through 4 of this act are added to chapter 28A.03 RCW.

Passed the Senate March 21, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 63

[Senate Bill No. 3129]

VETERANS AFFAIRS ADVISORY COMMITTEE—MEMBERSHIP INCREASED

AN ACT Relating to the veterans affairs advisory committee; and amending RCW 43.60A.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 14, chapter 115, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 34, Laws of 1983 and RCW 43.60A.080 are each amended to read as follows:

(1) There is hereby created a state veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of ~~((thirteen))~~ fourteen members to be appointed by the governor, and shall consist of two veterans at large, one of whom shall be a Viet Nam era veteran; one representative of the Washington soldiers' home and colony at Orting; one representative of the Washington veterans' home at Retsil; and one representative of each of the following congressionally chartered veterans organizations: American Legion, Veterans of Foreign Wars, American Veterans of World War II, Korea and Vietnam, Disabled American Veterans, Military Order of the Purple Heart, Marine Corps League, Paralyzed Veterans of America, Incorporated, American Ex-prisoners of War, ~~((and))~~ Veterans of World War I, and Gold Star Mothers. The ~~((nine))~~ ten members representing each of the foregoing organizations shall each be chosen from three names submitted to the governor by each of the named organizations. The first members of the committee shall hold office as follows: Three members to serve two years; three members to serve three years; and three members to serve four years. The first members appointed to represent the soldiers' home and colony at Orting and the veterans' home at Retsil

shall hold office for four years. Upon expiration of said original terms, subsequent appointments shall be for four years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) The state advisory committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on all matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(3) Members of the state advisory committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW.

Passed the Senate February 22, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 64

[Senate Bill No. 3028]

ARCHAEOLOGICAL MATERIALS—STATE HISTORIC PRESERVATION OFFICER DUTIES EXPANDED—FINANCIAL ASSISTANCE TO INDIAN TRIBES AUTHORIZED

AN ACT Relating to archaeological materials; and amending RCW 27.44.020 and 27.34.220.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 216, Laws of 1941 as amended by section 6, chapter 169, Laws of 1977 ex. sess. and RCW 27.44.020 are each amended to read as follows:

Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for ((exhibit and)) reburial or perpetual preservation in a duly recognized ((museum)) archaeological repository and permission for scientific research and removal of specimens of such records and material has been granted by the ((president of the University of Washington or Washington State University or a duly designated member of either president's faculty)) state historic preservation officer. Whenever a request for permission to remove records or material is

received, the state historic preservation officer shall notify the affected Indian tribe or tribes.

Sec. 2. Section 12, chapter 91, Laws of 1983 and RCW 27.34.220 are each amended to read as follows:

The preservation officer shall supervise and administer the activities of the office. The preservation officer is authorized:

(1) To promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the state and national registers of historic places, in accordance with criteria approved by the advisory council established under RCW 27.34.250. The nominations shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To spend funds, subject to legislative appropriation and the availability of funds, where necessary to assist the Indian tribes of Washington state in removing prehistoric human remains for scientific examination and reburial, if the human remains have been unearthed inadvertently or through vandalism and if no other public agency is legally responsible for their preservation.

(6) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens. The office shall submit periodic reports of its activities to the governor and the legislature.

~~((6))~~ (7) To charge fees for professional and clerical services provided by the office.

((7)) (8) To adopt such rules, in accordance with chapter 34.04 RCW, as are necessary to carry out RCW 27.34.200 through 27.34.290.

Passed the Senate April 9, 1985.
Passed the House March 29, 1985.
Approved by the Governor April 17, 1985.
Filed in Office of Secretary of State April 17, 1985.

CHAPTER 65

[Substitute Senate Bill No. 3201]

POLYCHLORINATED BIPHENYLS—DEPARTMENT OF ECOLOGY TO
REGULATE

AN ACT Relating to polychlorinated biphenyls; and adding a new section to chapter 70.105 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.105 RCW to read as follows:

The department of ecology shall regulate under chapter 70.105 RCW, wastes generated from the salvaging, rebuilding, or discarding of transformers or capacitors that have been sold or otherwise transferred for salvage or disposal after the completion or termination of their useful lives and which contain polychlorinated biphenyls (PCB's) and whose disposal is not regulated under 40 CFR part 761. Nothing in this section shall prohibit such wastes from being incinerated or disposed of at facilities permitted to manage PCB wastes under 40 CFR part 761.

Passed the Senate April 9, 1985.
Passed the House April 3, 1985.
Approved by the Governor April 17, 1985.
Filed in Office of Secretary of State April 17, 1985.

CHAPTER 66

[Substitute Senate Bill No. 3594]

IRRIGATION DISTRICT VOTING RIGHTS

AN ACT Relating to irrigation district voting rights; amending RCW 87.03.045 and 87.03.075; adding new sections to chapter 87.03 RCW; and repealing RCW 87.03.050, 87.03.055, 87.03.060, 87.03.065, and 87.03.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 57, Laws of 1955 as last amended by section 72, chapter 292, Laws of 1971 ex. sess. and RCW 87.03.045 are each amended to read as follows:

In districts with two hundred thousand acres or more, a person eighteen years old, being a citizen of the United States and a resident of the

state and who holds title or evidence of title to land in the district or proposed district shall be entitled to vote therein(~~(; except that any such person shall only be entitled to vote in a district comprising two hundred thousand or more acres, or in any other district to which this exception is made applicable as hereinafter provided, if he holds title or evidence of title to land other than land platted or subdivided into residence or business lots and not being used for agricultural or horticultural purposes, in which event, in a district comprising two hundred thousand or more acres;))~~). He shall be entitled to one vote for the first ten acres of said land or fraction thereof and one additional vote for all of said land over ten acres. (~~Lands platted or subdivided into residence or business lots shall not be considered as being used for agricultural or horticultural purposes unless (1) used exclusively for such purposes (2) by the holder of title or evidence of title who shall reside thereon and (3) cultivate said lands as a farmer, gardener, or horticulturist.~~) A majority of the directors shall be residents of the county or counties in which the district is situated and all shall be electors of the district. If more than one elector residing outside the county or counties is voted for as director, only that one who receives the highest number of votes shall be considered in ascertaining the result of the election. Where land is community property both the husband and wife may vote if otherwise qualified. An agent of a corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his instrument of authority. An elector resident in the district shall vote in the precinct in which he resides, all others shall vote in the precinct nearest their residence. (~~No director shall be qualified to take or retain office unless he holds title or evidence of title to five acres or more of land within the district. PROVIDED, That this additional qualification for the office of director shall not apply in any irrigation district where more than fifty percent of the total acreage of the district is owned in individual ownerships of less than five acres.~~)

NEW SECTION. Sec. 2. A new section is added to chapter 87.03 RCW to read as follows:

In districts with less than two hundred thousand acres, a person eighteen years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to assessable land in the district or proposed district shall be entitled to vote therein, and to be recognized as an elector. A domestic corporation owning land in the district shall be recognized as an elector. "Ownership" shall mean the aggregate of all assessable acres owned by an elector, individually or jointly, within one district. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. No one ownership may accumulate more than forty-nine percent of the votes in one district. If assessments are on the basis of shares instead of acres, an elector shall be entitled to two votes for each five shares or fraction thereof. The ballots cast for each ownership of

land or shares shall be exercised by common agreement between electors or when land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest. A majority of the directors shall be residents of the county or counties in which the district is situated and all shall be electors of the district. If more than one elector residing outside the county or counties is voted for as director, only that one who receives the highest number of votes shall be considered in ascertaining the result of the election. An agent of a domestic corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his instrument of authority. An elector resident in the district shall vote in the precinct in which he resides, all others shall vote in the precinct nearest their residence. No director shall be qualified to take or retain office unless he holds title or evidence of title to land within the district.

NEW SECTION. Sec. 3. A new section is added to chapter 87.03 RCW to read as follows:

In any irrigation district where more than fifty percent of the total acreage of the district is owned in individual ownerships of less than five acres, each elector who is otherwise qualified to vote pursuant to RCW 87.03.045 shall be entitled to two votes regardless of the size of ownership. Each ownership shall be represented by two votes. If there are multiple owners or joint owners of a single ownership, the owners shall decide among themselves what their two votes shall be. If the ownership is held as community property, the husband shall be entitled to one vote and the wife shall be entitled to one vote or they may vote by common agreement.

Sec. 4. Section 2, chapter 171, Laws of 1941 as last amended by section 1, chapter 345, Laws of 1981 and RCW 87.03.075 are each amended to read as follows:

Voting in an irrigation district shall be by ballot. Ballots shall be of uniform size and quality, provided by the district, and for the election of directors shall contain only the names of the candidates who have filed with the secretary of the district a declaration in writing of their candidacy, or a petition of nomination as hereinafter provided, not later than five o'clock p.m. on the first Monday in November. Ballots shall contain space for sticker voting or for the writing in of the name of an undeclared candidate. Ballots shall be issued by the election board according to the number of votes an elector is entitled to cast. A person filing a declaration of candidacy, or petition of nomination as hereinafter provided, shall designate therein

the position for which he is a candidate. No ballots on any form other than the official form shall be received or counted.

In any election for directors where the number of votes which may be received will have no bearing on the length of the term to be served, the candidates for the position of director, in lieu of filing a declaration of candidacy hereunder, shall file with the secretary of the district a petition of nomination signed by at least ten qualified electors of the district, or of the division if the district has been divided into director divisions, not later than five o'clock p.m. on the first Monday in November. If, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated thereby for each position to be filled it shall not be necessary to hold an election, and the board of directors shall at their next meeting declare such candidate elected as director. The secretary shall immediately make and deliver to such person a certificate of election signed by him and bearing the seal of the district. The procedure set forth in this paragraph shall not apply to any other irrigation district elections.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

- (1) Section 5, chapter 57, Laws of 1955 and RCW 87.03.050;
- (2) Section 6, chapter 57, Laws of 1955 and RCW 87.03.055;
- (3) Section 7, chapter 57, Laws of 1955 and RCW 87.03.060;
- (4) Section 8, chapter 57, Laws of 1955 and RCW 87.03.065; and
- (5) Section 9, chapter 57, Laws of 1955 and RCW 87.03.070.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 67

[Senate Bill No. 4266]

ENERGY FACILITY SITE EVALUATION COUNCIL—CHAIRMAN AUTHORITY MODIFIED

AN ACT Relating to the energy facility site evaluation council; amending RCW 80.50-.040; and reenacting and amending RCW 80.50.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 45, Laws of 1970 ex. sess. as last amended by section 372, chapter 7, Laws of 1984 and by section 18, chapter 125,

Laws of 1984 and RCW 80.50.030 are each reenacted and amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2) (a) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined under RCW 43-.03.040. The chairman is a "state employee" for the purposes of chapter 42.18 RCW.

(b) The chairman is the chief executive officer of the council and shall, with the concurrence of the council, execute all official documents, contracts, and other materials on behalf of the council. The chairman shall appoint an executive secretary to serve at the pleasure of the chairman. The chairman may appoint a confidential secretary to serve at the pleasure of the chairman. The chairman shall appoint and prescribe the duties of such clerks, employees, and agents as may be necessary to carry out this chapter: PROVIDED, That such persons shall be employed pursuant to chapter 41-.06 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (a) Department of ecology;
- (b) Department of fisheries;
- (c) Department of game;
- (d) Department of parks and recreation;
- (e) Department of social and health services;
- (f) State energy office;
- (g) Department of commerce and economic development;
- (h) Utilities and transportation commission;
- (i) Office of financial management;
- (j) Department of natural resources;
- (k) Department of community development;
- (l) Department of emergency ((services)) management;
- (m) Department of agriculture;
- (n) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he represents, and such member or

designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

Sec. 2. Section 4, chapter 45, Laws of 1970 ex. sess. as last amended by section 1, chapter 254, Laws of 1979 ex. sess. and RCW 80.50.040 are each amended to read as follows:

The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations, pursuant to chapter 34.04 RCW, to carry out the provisions of this chapter, and the policies and practices of the council in connection therewith;

~~(2) ((To appoint an executive secretary to serve at the pleasure of the council;~~

~~(3) To appoint and prescribe the duties of such clerks, employees, and agents as may be necessary to carry out the provisions of this chapter: PROVIDED, That such persons shall be employed pursuant to the provisions of chapter 41.06 RCW;~~

~~(4))~~ To develop and apply environmental and ecological guidelines in relation to the type, design, location, construction, and operational conditions of certification of energy facilities subject to this chapter;

~~((5))~~ (3) To establish rules of practice for the conduct of public hearings pursuant to the provisions of the Administrative Procedure Act, as found in chapter 34.04 RCW;

~~((6))~~ (4) To prescribe the form, content, and necessary supporting documentation for site certification;

~~((7))~~ (5) To receive applications for energy facility locations and to investigate the sufficiency thereof;

~~((8))~~ (6) To make and contract, when applicable, for independent studies of sites proposed by the applicant;

~~((9))~~ (7) To conduct hearings on the proposed location of the energy facilities;

~~((10))~~ (8) To prepare written reports to the governor which shall include: (a) A statement indicating whether the application is in compliance with the council's guidelines, (b) criteria specific to the site and transmission line routing, (c) a council recommendation as to the disposition of the application, and (d) a draft certification agreement when the council recommends approval of the application;

~~((11))~~ (9) To prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification and/or permits issued by the council pursuant to chapter 90.48 RCW or ~~((RCW 80.50.040(14)))~~ subsection (12) of this section: PROVIDED, That any on-site inspection required by the council shall be performed by other state agencies pursuant to interagency agreement: PROVIDED FURTHER, That the council shall retain authority for determining compliance relative to monitoring;

~~((12))~~ (10) To integrate its site evaluation activity with activities of federal agencies having jurisdiction in such matters to avoid unnecessary duplication;

~~((13))~~ (11) To present state concerns and interests to other states, regional organizations, and the federal government on the location, construction, and operation of any energy facility which may affect the environment, health, or safety of the citizens of the state of Washington;

~~((14))~~ (12) To issue permits in compliance with applicable provisions of the federally approved state implementation plan adopted in accordance with the Federal Clean Air Act, as now existing or hereafter amended, for the new construction, reconstruction, or enlargement or operation of energy facilities: PROVIDED, That such permits shall become effective only if the governor approves an application for certification and executes a certification agreement pursuant to this chapter: AND PROVIDED FURTHER, That all such permits be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities covered within the provisions of this chapter.

Passed the Senate April 9, 1985.

Passed the House April 5, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 68

[Senate Bill No. 3104]

STATUTES SUPERSEDED BY COURT RULE

AN ACT Relating to statutes superseded by court rules; amending RCW 4.12.025; and repealing RCW 4.08.010, 4.08.070, 4.08.200, 4.12.026, 4.12.027, 4.28.005, 4.32.040, 4.32.230,

4.36.180, 4.36.200, 4.44.030, 4.44.050, 4.44.430, 4.56.020, 4.76.020, 4.76.040, 4.76.050, 4.76.060, 4.84.180, 5.04.010, 5.36.020, 5.56.020, 5.56.030, 5.56.040, 5.60.010, 5.60.040, 7.16.090, 10.16.090, 10.46.030, and 10.52.020.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

(1) Section 3, page 131, Laws of 1854, section 4, page 3, Laws of 1869, section 1, page 4, Laws of 1875, section 4, page 4, Laws of 1877, section 4, Code of 1881 and RCW 4.08.010;

(2) Section 9, page 132, Laws of 1854, section 15, page 5, Laws of 1877, section 14, Code of 1881 and RCW 4.08.070;

(3) Section 24, page 7, Laws of 1877, section 24, Code of 1881, section 1, chapter 9, Laws of 1957 and RCW 4.08.200;

(4) Section 2, chapter 173, Laws of 1927 and RCW 4.12.026;

(5) Section 3, chapter 173, Laws of 1927 and RCW 4.12.027;

(6) Section 26, chapter 127, Laws of 1893 and RCW 4.28.005;

(7) Section 39, page 139, Laws of 1854, section 76, page 17, Laws of 1877, section 76, Code of 1881, section 1, chapter 62, Laws of 1891 and RCW 4.32.040;

(8) Section 10, page 10, Laws of 1857, section 90, page 20, Laws of 1877, section 90, Code of 1881 and RCW 4.32.230;

(9) Section 66, page 143, Laws of 1854, section 105, page 23, Laws of 1877, section 105, Code of 1881 and RCW 4.36.180;

(10) Section 68, page 144, Laws of 1854, section 107, page 23, Laws of 1877, section 107, Code of 1881, section 3, chapter 76, Laws of 1984 and RCW 4.36.200;

(11) Section 36, chapter 127, Laws of 1893 and RCW 4.44.030;

(12) Section 205, page 168, Laws of 1854, section 250, page 60, Laws of 1869, section 250, page 51, Laws of 1877, section 246, Code of 1881 and RCW 4.44.050;

(13) Section 200, page 167, Laws of 1854, section 246, page 59, Laws of 1869, section 246, page 50, Laws of 1877, section 242, Code of 1881 and RCW 4.44.430;

(14) Section 1, chapter 10, Laws of 1897 and RCW 4.56.020;

(15) Section 216, page 170, Laws of 1854, section 278, page 67, Laws of 1869, section 276, Code of 1881, section 1, chapter 34, Laws of 1909, section 1, chapter 138, Laws of 1933 and RCW 4.76.020;

(16) Section 1, page 30, Laws of 1888 and RCW 4.76.040;

(17) Section 283, page 68, Laws of 1869, section 282, page 57, Laws of 1877, section 278, Code of 1881 and RCW 4.76.050;

(18) Section 282, page 68, Laws of 1869, section 283, page 57, Laws of 1877, sections 279, 280, Code of 1881, section 1, chapter 59, Laws of 1891, section 1, chapter 14, Laws of 1897 and RCW 4.76.060;

(19) Section 385, page 204, Laws of 1854, section 527, page 110, Laws of 1877, section 523, Code of 1881, section 23, chapter 81, Laws of 1971 and RCW 4.84.180;

(20) Section 305, page 189, Laws of 1854, section 398, page 106, Laws of 1869, section 405, page 88, Laws of 1877, section 403, Code of 1881 and RCW 5.04.010;

(21) Section 333, page 195, Laws of 1854, section 425, page 115, Laws of 1869, section 431, page 94, Laws of 1877, section 429, Code of 1881 and RCW 5.36.020;

(22) Section 297, page 188, Laws of 1854, section 390, page 105, Laws of 1869, section 397, page 87, Laws of 1877, section 395, Code of 1881, section 1, chapter 96, Laws of 1895 and RCW 5.56.020;

(23) Section 296, page 188, Laws of 1854, section 389, page 105, Laws of 1869, section 396, page 87, Laws of 1877, section 394, Code of 1881 and RCW 5.56.030;

(24) Section 298, page 188, Laws of 1854, section 391, page 105, Laws of 1869, section 398, page 87, Laws of 1877, section 396, Code of 1881 and RCW 5.56.040;

(25) Section 232, page 57, Laws of 1869, section 232, page 48, Laws of 1877, section 228, Code of 1881 and RCW 5.60.010;

(26) Section 292, page 186, Laws of 1854, section 385, page 103, Laws of 1869, section 392, page 86, Laws of 1877, section 390, Code of 1881, section 1, chapter 19, Laws of 1891 and RCW 5.60.040;

(27) Section 9, chapter 65, Laws of 1895 and RCW 7.16.090;

(28) Section 16, chapter 11, Laws of 1891 and RCW 10.16.090;

(29) Section 82, page 114, Laws of 1854, section 218, page 230, Laws of 1873, section 1038, Code of 1881, section 44, chapter 28, Laws of 1891 and RCW 10.46.030; and

(30) Section 95, page 117, Laws of 1854, section 231, page 233, Laws of 1873, section 1069, Code of 1881, section 1, chapter 81, Laws of 1977 ex. sess. and RCW 10.52.020.

Sec. 2. Section 1, chapter 173, Laws of 1927 as last amended by section 1, chapter 31, Laws of 1983 and RCW 4.12.025 are each amended to read as follows:

(1) An action may be brought in any county in which the defendant resides, or, if there be more than one defendant, where some one of the defendants resides at the time of the commencement of the action. For the purpose of this section, (~~RCW 4.12.026, and 4.12.027,~~) the residence of a corporation defendant shall be deemed to be in any county where the corporation: (a) Transacts business; (b) has an office for the transaction of business; (c) transacted business at the time the cause of action arose; or (d) where any person resides upon whom process may be served upon the corporation.

(2) The venue of any action brought against a corporation, at the option of the plaintiff, shall be: (a) In the county where the tort was committed; (b) in the county where the work was performed for said corporation; (c) in the county where the agreement entered into with the corporation was made; or (d) in the county where the corporation has its residence.

Passed the Senate February 8, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 69

[Engrossed Senate Bill No. 3319]

OPEN MEETINGS—COURT ACTIONS REGARDING VIOLATIONS— ATTORNEY FEES AND COSTS

AN ACT Relating to open meetings; and amending RCW 42.30.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 250, Laws of 1971 ex. sess. as amended by section 3, chapter 66, Laws of 1973 and RCW 42.30.120 are each amended to read as follows:

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

Passed the Senate March 14, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 70

[Substitute Senate Bill No. 3015]

PAWNBROKERS AND SECOND-HAND DEALERS—CERTAIN USED ITEMS
DISTINGUISHED AND EXCEPTED

AN ACT Relating to used items; and amending RCW 19.60.010 and 19.60.085.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 235, chapter 249, Laws of 1909 as last amended by section 1, chapter 10, Laws of 1984 and RCW 19.60.010 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) Melted metals means metals derived from metal junk or precious metals that have been reduced to a melted state from other than ore or ingots which are produced from ore that has not previously been processed.

(2) Metal junk means any metal that has previously been milled, shaped, stamped, or forged and that is no longer useful in its original form, except precious metals.

(3) Nonmetal junk means any nonmetal, commonly discarded item that is worn out, or has outlasted its usefulness as intended in its original form except nonmetal junk does not include an item made in a former period which has enhanced value because of its age.

(4) Pawnbroker means every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property.

(5) Precious metals means gold, silver, and platinum.

(6) Second-hand dealer means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, second-hand property including metal junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the state.

(7) Second-hand property means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, used books, and clothing of a resale value of seventy-five dollars or less, except furs.

(8) Transaction means a pledge, purchase, or consignment by a pawnbroker or a second-hand dealer from a member of the general public.

Sec. 2. Section 2, chapter 10, Laws of 1984 and RCW 19.60.085 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

- (1) Motor vehicle dealers licensed under chapter 46.70 RCW;
- (2) Motor vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;
- (3) Persons giving an allowance for the trade-in or exchange of second-hand property on the purchase of other merchandise of the same kind of greater value; and
- (4) Persons in the business of buying or selling empty food and beverage containers or metal or nonmetal junk.

Passed the Senate February 8, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 71

[Senate Bill No. 3826]

LOCAL GOVERNMENT FINANCES—SHORT-TERM OBLIGATIONS—
ISSUANCE IN ANTICIPATION OF THE RECEIPT OF TAXES

AN ACT Relating to local government finances; and amending RCW 39.50.030 and 39.50.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 216, Laws of 1982 as amended by section 112, chapter 167, Laws of 1983 and RCW 39.50.030 are each amended to read as follows:

(1) The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate or rates to be borne thereby, the manner of sale, maximum price, form including bearer or registered as provided in RCW 39.46.030, terms, conditions, and the covenants thereof(~~(-PROVIDED, That general obligation short-term obligations shall be sold at not less than the par value thereof)~~). The ordinance may provide for designation and employment of a paying agent for the short-term obligations and may authorize a designated representative of the municipal corporation to act on its behalf and subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued (~~((pursuant to these contracts shall mature no later than three years after the date of the contract, but obligations issued))~~) in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. For the purpose of this subsection, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be obligations issued in anticipation of the receipt of taxes.

(2) Notwithstanding subsection (1) of this section, such short-term obligations may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 2. Section 5, chapter 216, Laws of 1982 and RCW 39.50.040 are each amended to read as follows:

Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations and may be funded by the issuance of revenue, improvement district, special assessment, or general obligation bonds. (~~(Short-term obligations, refunding short-term obligations, or renewals of short-term obligations payable from sources other than taxes shall not be outstanding for a total elapsed time of more than three years.)~~) Short-term obligations payable from taxes shall not be renewed or refunded to a date later than six months from the end of the fiscal year in which the original short-term obligation was issued. For the purpose of this section, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be short-term obligations payable from taxes.

Passed the Senate March 14, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 72

[Substitute Senate Bill No. 3398]

AWARD OF LOCAL PURCHASE CONTRACTS—CONSIDERATION OF LOCAL EXCISE TAX REVENUES ALLOWED

AN ACT Relating to the consideration of local excise tax revenues arising from local purchases in awarding purchase contracts; and adding a new section to chapter 39.30 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 39.30 RCW to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

Passed the Senate March 11, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 73

[Substitute Senate Bill No. 3087]

JUVENILE DIVERSION AGREEMENTS—FINES—IMPOSITION AND COLLECTION AUTHORITY CONTINUED

AN ACT Relating to juvenile offenders; amending RCW 13.40.030 and 13.40.080; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 57, chapter 291, Laws of 1977 ex. sess. as last amended by section 6, chapter 191, Laws of 1983 and RCW 13.40.030 are each amended to read as follows:

(1) (a) The juvenile disposition standards commission shall propose to the legislature no later than November 1st of each even-numbered year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous

offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards proposed for offenders listed in RCW 13.40.020(1) shall include a range of confinement which may not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards proposed by the commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed. In developing proposed disposition standards (~~between July 24, 1983 and June 30, 1985~~), the commission shall consider the capacity of the state juvenile facilities and the projected impact of the proposed standards on that capacity (~~through June 30, 1985~~).

(b) The secretary shall submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review no later than November 1st of each even-numbered year. At the same time the secretary shall submit a report on security at juvenile facilities during the preceding two-year period. The report shall include the number of escapes from each juvenile facility, the most serious offense for which each escapee had been confined, the number and nature of offenses found to have been committed by juveniles while on escape status, the number of authorized leaves granted, the number of failures to comply with leave requirements, the number and nature of offenses committed while on leave, and the number and nature of offenses committed by juveniles while in the community on minimum security status; to the extent this information is available to the secretary. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(2) If the commission fails to propose disposition standards as provided in this section, the existing standards shall remain in effect and may be adopted by the legislature or referred to the commission for modification as provided in subsection (3) of this section. If the standards are referred for modification, the provisions of subsection (4) shall be applicable.

(3) The legislature may adopt the proposed standards or refer the proposed standards to the commission for modification. If the legislature fails to adopt or refer the proposed standards to the commission by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.

(4) If the legislature refers the proposed standards to the commission for modification on or before February 15th, the commission shall resubmit the proposed modifications to the legislature no later than March 1st. The

legislature may adopt or modify the resubmitted proposed standards. If the legislature fails to adopt or modify the resubmitted proposed standards by April 1st, the resubmitted proposed standards shall take effect without legislative approval on July 1st of that year.

(5) In developing and promulgating the permissible ranges of confinement under this section the commission shall be subject to the following limitations:

(a) Where the maximum term in the range is ninety days or less, the minimum term in the range may be no less than fifty percent of the maximum term in the range;

(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range may be no less than seventy-five percent of the maximum term in the range; and

(c) Where the maximum term in the range is more than one year, the minimum term in the range may be no less than eighty percent of the maximum term in the range.

Sec. 2. Section 62, chapter 291, Laws of 1977 ex. sess. as last amended by section 16, chapter 191, Laws of 1983 and RCW 13.40.080 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversionary unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it.

(2) A diversion agreement shall be limited to:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by the victim, and to an amount the juvenile has the means or potential means to pay;

(c) Attendance at up to two hours of counseling and/or up to ten hours of educational or informational sessions at a community agency: PROVIDED, That the state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to two hours of counseling and/or up to ten hours of educational or informational sessions; and

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement,

the court officer to whom this task is assigned shall to the extent possible involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4) A diversion agreement may not exceed a period of six months for a misdemeanor or gross misdemeanor or one year for a felony and may include a period extending beyond the eighteenth birthday of the diverttee. Any restitution assessed during its term may not exceed an amount which the juvenile could be reasonably expected to pay during this period. If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

(5) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(6) Diverttees and potential diverttees shall be afforded due process in all contacts with a diversionary unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No diverttee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the diverttee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the diverttee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the diverttee was diverted:

(i) In juvenile court if the diverttee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the diverttee is eighteen years of age or older.

(7) The diversion unit shall be responsible for advising a diverttee of his or her rights as provided in this chapter.

(8) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(6) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(9) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

- (a) The fact that a charge or charges were made;
- (b) The fact that a diversion agreement was entered into;
- (c) The juvenile's obligations under such agreement;
- (d) Whether the alleged offender performed his or her obligations under such agreement; and
- (e) The facts of the alleged offense.

(10) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. It shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(11) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement: PROVIDED, That any juvenile so handled shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(6) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall

be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language: PROVIDED FURTHER, That a juvenile determined to be eligible by a diversionary unit for such release shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(12) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(13) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(14) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

~~((15) The authority to impose and collect fines under this section shall terminate on June 30, 1985.))~~

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the Senate March 12, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 74

[Substitute House Bill No. 520]

INDUSTRIAL LOAN COMPANIES—INTEREST RATES—OPEN-END LOANS

AN ACT Relating to industrial loan companies; amending RCW 31.04.090 and 31.04.100; and adding a new section to chapter 31.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 172, Laws of 1923 as last amended by section 2, chapter 312, Laws of 1981 and RCW 31.04.090 are each amended to read as follows:

Every corporation under the provisions of this chapter shall have power:

(1) To lend money and to deduct interest therefor in advance at the rate of ten percent per annum, or less; however, for any loan with a term in excess of two years, interest may be calculated by the simple interest method at a rate which does not exceed twenty-five percent per annum.

(2) To agree with the borrower for the payment of an aggregate amount for expenses incurred and services rendered in connection with the investigation of the character and circumstances of the borrower and the security offered in connection with his loan, and for servicing and maintaining the said loan and security, which amount shall not in any event exceed an initial charge of two dollars on a loan under one hundred dollars or a maximum of two percent of any loan of one hundred dollars or more, and which initial charge may be deducted from said loan in advance, and a charge of fifty cents per month to be collected monthly during the actual period that said loan or any part thereof remain unpaid(;;).

(3) To require the borrower to purchase simultaneously with the loan transaction, or otherwise, and pledge as security therefor, an investment certificate of the character described in (~~subdivision (2))~~ subsection (4) of this section, in an amount equal to the amount of the note. Upon maturity of the note, the borrower may, at his option, surrender the investment certificate. No additional charge shall be made except to reimburse the corporation for money actually expended to any public officer for filing and recording any instrument securing such loan or in connection therewith. No charge shall be collected unless a loan shall have been made, except for reasonable fees properly incurred in connection with appraisal of security offered by a potential borrower. In connection with appraisal of property, the borrower may select a qualified appraiser subject to approval of lender. The borrower shall not be obligated to pay the appraisal fee if the loan application is rejected.

(~~(2))~~ (4) Except in connection with an open-end loan, and subject to the limitations provided in this chapter, to sell or negotiate written evidences of debt, to be known as "investment certificates," for the payment of money by the corporation at any time, and bearing interest, as therein designated, and to receive payment therefor in full or in installments; to charge a penalty of five cents or less on each dollar of such installment payments delinquent one full week or more. No interest shall be collected on delinquent installments. No certificate or securities of any nature shall be sold at a price in excess of the actual book value of the certificate or securities sold. The issuance of written evidences of debt authorized by this subdivision shall be subject to the provisions of RCW 31.04.230.

(5) To make open-end loans as provided in this chapter.

~~((3))~~ (6) To borrow money. Nothing contained in this subdivision or in ((subdivision-2)) subsection (4) of this section shall be construed as authorizing the corporation to receive deposits or to issue certificates of deposit or to create any liability due on demand.

~~((4))~~ (7) To establish branches subject to the approval and authority of the supervisor of banking.

~~((5))~~ (8) Conferred upon corporations by RCW 31.04.120.

Sec. 2. Section 9, chapter 172, Laws of 1923 as last amended by section 3, chapter 312, Laws of 1981 and RCW 31.04.100 are each amended to read as follows:

No corporation under the provisions of this chapter shall:

(1) Make any loan, other than an open-end loan, on the security of makers, comakers, endorsers, sureties or guarantors, for a longer period than ~~((two))~~ five years from the date thereof.

(2) Hold at any one time the primary obligation, or obligations of any person, firm or corporation, for more than fifteen percent of the amount of the paid-up capital and surplus of such industrial loan company.

(3) Hold at any one time the obligation or obligations of persons, firms, or corporations purchased from any person, firm or corporation in excess of twenty percent of the aggregate paid-up capital and surplus of such industrial loan company.

(4) Make any loans, other than open-end loans, or loans secured by real estate or personal property used as a residence, secured by chattel mortgage for a longer period than ((two)) five years from the date thereof.

(5) Make any loan or discount on the security of its own capital stock, or be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within ninety days from the time of its purchase or acquisition.

(6) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for commercial banks.

(7) Make any loan or discount, nor shall any officer or employee thereof on behalf of such corporation, make any loan or discount directly or indirectly to any director, officer or employee of such corporation.

(8) Have outstanding at any time its promissory notes or other evidences of debt in an aggregate sum in excess of three times the aggregate amount of its paid-up capital and surplus, exclusive of investment certificates hypothecated with the corporation issuing them.

(9) Exact a surrender charge on investment certificates issued by the corporation.

(10) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of

the majority of the directors or the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

(11) Make any loan or discount secured by real estate with a total note, less interest and investigation fee in an amount in excess of ninety percent of the value of such real estate and improvements, including all prior liens against the same: **PROVIDED**, That for any such loan with a term in excess of two years, the interest rate charged shall not exceed twenty-five percent per annum.

(12) Have outstanding at any time investment certificates issued in the name of any one person, firm or corporation for an amount in excess of fifteen percent of its paid-up capital and surplus.

(13) Pledge or hypothecate any of its securities to any creditor except that it may borrow and rediscount an amount not to exceed in the aggregate three times the amount of the paid-up capital and surplus thereof, and may pledge as security for amounts borrowed assets of the corporation not exceeding one and one-half times the amount borrowed and may pledge as security for amounts rediscounted assets of the corporation not exceeding one-half the amount rediscounted.

NEW SECTION. Sec. 3. A new section is added to chapter 31.04 RCW to read as follows:

(1) As used in this section, "open-end loan" means an agreement between an industrial loan company and a borrower which expressly states that the loan is made in accordance with this chapter and which provides that:

(a) The company may permit the borrower to obtain advances of money from the company from time to time, or the company may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) Interest charges on any open-end loan shall not exceed twenty-five percent per annum. Such charges are computed in each billing cycle by any of the following methods:

(a) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(b) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the above methods of computation, the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month, or does not vary by more than four days from such date.

(3) In addition to the charges permitted under subsection (2) of this section, the industrial loan company may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. The corporation may also contract for and receive on an open-end loan any additional charge permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges, with the following variations:

(a) If credit life or disability insurance is provided, and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as such rate may be determined by the insurance commissioner, to the unpaid balances in the borrower's account, using either of the methods specified in subsection (2) of this section for the calculation of interest;

(b) No credit life or disability insurance written in connection with an open-end loan shall be canceled by the lender because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of such payments is past due for a period of ninety days or more; and the lender shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(4) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated, provided that it shall be promptly released if there has been no outstanding balance in the account for twelve months, and the borrower either does not have, or surrenders, the unilateral right to create a new outstanding balance, or if the account is terminated at the borrower's request and paid in full.

(5) The industrial loan company may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans, if the industrial loan company mails or delivers written notice of the change to the borrower at least thirty days prior to the effective date of the increase, unless the increase has been earlier agreed to by the borrower; however, the borrower may choose to terminate the open-end loan account, and the industrial loan company will allow the borrower to repay, under the existing open-end loan account terms, the unpaid balance incurred prior to the effective date of the increase, unless the borrower incurs additional debt on or after that date or otherwise agrees to the increase.

(6) A copy of the open-end loan agreement shall be delivered by the industrial loan company to the borrower at the time the open-end account is opened. The agreement shall contain the name and address of the industrial loan company, and of the principal borrower, and shall contain such specific disclosures as may be required by Regulation Z promulgated by the board of governors of the federal reserve system under the Federal Consumer Credit Protection Act.

(7) Except in the case of an account which the industrial loan company deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the company shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by Regulation Z promulgated by the board of governors of the federal reserve system under the Federal Consumer Credit Protection Act.

(8) The supervisor of banking may adopt such rules as are necessary to conform with changes in Regulation Z.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 11, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 75

[House Bill No. 402]

RAFFLE TICKETS—MAXIMUM ALLOWABLE COST INCREASED

AN ACT Relating to raffle tickets; and amending RCW 9.46.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 139, Laws of 1981 as amended by section 1, chapter 207, Laws of 1984 and RCW 9.46.020 are each amended to read as follows:

(1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;
- (e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

The legislature hereby authorizes the wagering on the outcome of the roll of dice or the flipping of or matching of coins on the premises of an establishment engaged in the business of selling food or beverages for consumption on the premises to determine which of the participants will pay for certain items of food or beverages served or sold by such establishment and therein consumed. Such establishments are hereby authorized to possess dice and dice cups on their premises, but only for use in such limited wagering. Persons engaged in such limited form of wagering shall not be subject to the criminal or civil penalties otherwise provided for in this chapter: PROVIDED, That minors shall be barred from engaging in the wagering activities allowed by this chapter.

(2) "Bingo" means a game conducted only in the county within which the organization is principally located in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its

premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. For the purposes of this subsection the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer: PROVIDED, That any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981 shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located.

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. Such an organization must have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required. It must have not less than fifteen bona fide active members each with the right to an equal vote in the election of the officers, or board

members, if any, who determine the policies of the organization in order to receive a gambling license. An organization must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(4) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

(6) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(7) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(8) "Fishing derby" means a fishing contest, with or without the payment or giving of an entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight, or quality of fish caught in a bona fide fishing or recreational event.

(9) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16

RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of this section shall not constitute gambling.

(10) "Gambling device" means: (a) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. But in the application of this definition, a pinball machine or similar mechanical amusement device which confers only an immediate and unrecorded right of replay on players thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won or a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: PROVIDED FURTHER, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: PROVIDED FURTHER, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(11) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: PROVIDED, HOWEVER, That this subsection shall not

apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

(12) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found, shall be presumed to be intended to be used for professional gambling.

(13) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

(14) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state;

(d) Visitation to any business establishment to obtain a coupon, or entry blank;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material;

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer;

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: PROVIDED, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and the period of the drawing and its promotion shall not extend for more than seven consecutive days: PROVIDED FURTHER, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the initial opening of any such outlet; or

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(15) "Member" and "bona fide member". As used in this chapter, member and bona fide member each mean a person accepted for membership in an organization eligible to be licensed by the commission under this chapter upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to participating in the management or operation of any gambling activity. Such membership must in no way be dependent upon, or in any way related to, the payment of consideration to participate in any gambling activity.

Member or bona fide member shall include only members of an organization's specific chapter or unit licensed by the commission or otherwise actively conducting the gambling activity: PROVIDED, That

(a) Members of chapters or local units of a state, regional or national organization may be considered members of the parent organization for the purpose of a gambling activity conducted by the parent organization, if the rules of the parent organization so permit;

(b) Members of a bona fide auxiliary to a principal organization may be considered members of the principal organization for the purpose of a gambling activity conducted by the principal organization. Members of the principal organization may also be considered members of its auxiliary for the purpose of a gambling activity conducted by the auxiliary; and

(c) Members of any chapter or local unit within the jurisdiction of the next higher level of the parent organization, and members of a bona fide auxiliary to that chapter or unit, may assist any other chapter or local unit of that same organization licensed by the commission in the conduct of gambling activities.

No person shall be a member of any organization if that person's primary purpose for membership is to become, or continue to be, a participant in, or an operator or manager of, any gambling activity or activities.

(16) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(17) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (14) of this section.

Conduct under subparagraph (a), except as exempted under RCW 9.46.030 as now or hereafter amended, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling: PROVIDED, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in

the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this chapter: PROVIDED, FURTHER, That the books and records of the games shall be open to public inspection.

(18) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of July 16, 1973, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(19) "Raffle" means a game in which tickets bearing an individual number are sold for not more than ~~((one dollar))~~ five dollars each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(20) "Social card game" means a card game, including but not limited to the game commonly known as "Mah Jongg", which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players: PROVIDED, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing in excess of one dollar per half hour of playing time by that person collected in advance: PROVIDED, That a fee may also be charged for entry into a tournament for prizes, which fee shall not exceed twenty-five dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: PROVIDED FURTHER, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization; and

(e) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to RCW 9.46.070.

(21) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(22) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(23) "Fund raising event" means a fund raising event conducted during any seventy-two consecutive hours but exceeding twenty-four consecutive hours and not more than once in any calendar year or a fund raising event conducted not more than twice each calendar year for not more than twenty-four consecutive hours each time by a bona fide charitable or nonprofit organization as defined in subsection (3) of this section other than any agricultural fair referred to thereunder, upon authorization therefor by the commission, which the legislature hereby authorizes to issue a license therefor, with or without fee, permitting the following activities, or any of them, during such event: Bingo, amusement games, contests of chance, lotteries and raffles: PROVIDED, That (a) gross wagers and bets received by the organization less the amount of money paid by the organization as winnings and for the purchase cost of prizes given as winnings do not exceed ten thousand dollars during the total calendar days of such fund raising event in the calendar year; (b) such activities shall not include any mechanical gambling or lottery device activated by the insertion of a coin or by the insertion of any object purchased by any person taking a chance by gambling in respect to the device; (c) only bona fide members of the organization who are not paid for such service shall participate in the management or operation of the activities, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization; and (d) such organization shall notify the appropriate local law enforcement agency of the time and place where such activities shall be conducted. The commission shall require an annual information report setting forth in detail the expenses incurred and the revenue received relative to the activities permitted.

Bona fide charitable or nonprofit organizations holding a license to conduct a fund raising event may joint [join] together to jointly conduct a fund raising event if:

(i) Approval to do so is received from the commission; and

(ii) The method of dividing the income and expenditures and the method of recording and handling of funds are disclosed to the commission in the application for approval of the joint fund raising event and are approved by the commission.

The gross wagers and bets received by the organizations less the amount of money paid by the organizations as winnings and for the purchase costs of prizes given as winnings may not exceed ten thousand dollars during the total calendar days of such event. The net receipts each organization receives shall count against the organization's annual limit stated in this subsection.

A joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the net receipts for the purposes of the number of such events an organization may conduct each year.

The commission may issue a joint license for a joint fund raising event and charge a license fee for such license according to a schedule of fees adopted by the commission which reflects the added cost to the commission of licensing more than one licensee for the event.

Passed the House March 1, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 76

[House Bill No. 12]

TELEVISION RECEPTION IMPROVEMENT DISTRICTS—FM RADIO— TRANSMISSION AUTHORITY

AN ACT Relating to FM radio reception; and amending RCW 36.95.010, 36.95.130, and 36.95.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.010 are each amended to read as follows:

The purposes of a television reception improvement district, hereinafter referred to in this chapter as "district", shall be to serve the public interest, convenience, and necessity in the construction, maintenance, and operation of television and FM radio translator stations, including appropriate electric or electronic devices for increasing television program distribution, but said purposes are not meant to include the construction or operation of television cable systems, commonly known and referred to as cable TV systems or CATV.

Sec. 2. Section 13, chapter 155, Laws of 1971 ex. sess. as last amended by section 102, chapter 167, Laws of 1983 and RCW 36.95.130 are each amended to read as follows:

In addition to other powers provided for under this chapter, the board shall have the following powers:

(1) To perform all acts necessary to assure that the purposes of this chapter will be carried out fairly and efficiently;

(2) To acquire, build, construct, repair, own, maintain, and operate any necessary stations retransmitting ((~~simultaneous~~)) visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary: PROVIDED, That the board shall have no power to originate programs;

(3) To make contracts to compensate any owner of land or other property for the use of such property for the purposes of this chapter;

(4) To make contracts with the United States, or any state, municipality, or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) To acquire by gift, devise, bequest, lease, or purchase real and personal property, tangible or intangible, including lands, rights of way, and easements, necessary or convenient for its purposes;

(6) To make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this chapter;

(7) To contract indebtedness or borrow money and to issue warrants or bonds to be paid from district revenues: PROVIDED, That the bonds, warrants, or other obligations may be in any form, including bearer or registered as provided in RCW 39.46.030: PROVIDED FURTHER, That such warrants and bonds may be issued and sold in accordance with chapter 39.46 RCW;

(8) To prescribe tax rates for the providing of services throughout the area in accordance with the provisions of this chapter; and

(9) To apply for, accept, and be the holder of any permit or license issued by or required under federal or state law.

Sec. 3. Section 14, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.140 are each amended to read as follows:

A district may translate or retransmit only those signals which originate from commercial and educational FM radio stations and commercial and educational television stations which directly provide, within some portion of the state of Washington, a class A grade or class B grade contour, as

such classes are defined under regulations of the Federal Communications Commission as of August 9, 1971.

Passed the House March 4, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 77

[House Bill No. 92]

INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION—MEMBERSHIP
MAY INCLUDE DESIGNEES OF AGENCY DIRECTORS

AN ACT Relating to the interagency committee for outdoor recreation; and amending RCW 43.99.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 84, chapter 287, Laws of 1984 and RCW 43.99.110 are each amended to read as follows:

There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, the director of game, the director of fisheries, or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03.050 and 43.03.060.

Passed the House February 15, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 78

[Substitute House Bill No. 188]

REPOSSESSED MOBILE HOMES—REMOVAL FROM MOBILE HOME PARKS

AN ACT Relating to removal of repossessed mobile homes from mobile home parks; and adding a new section to chapter 59.20 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 59.20 RCW to read as follows:

A secured party who has a security interest in a mobile home that is located within a mobile home park and takes possession of the mobile home under RCW 62A.9-503, shall be liable to the landlord for rent for occupancy of the mobile home space under the same terms the tenant was paying prior to repossession, until disposition of the mobile home under RCW 62A.9-504.

(2) This section shall not affect the availability of a landlord's lien as provided in chapter 60.72 RCW.

(3) As used in this section, "security interest" shall have the same meaning as this term is defined in RCW 62A.1-201, and "secured party" shall have the same meaning as this term is defined in RCW 62A.9-105.

Passed the House March 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 79

[House Bill No. 398]

HEAVY MOTOR VEHICLE REGISTRATION CONDITIONED ON PAYMENT OF FEDERAL HEAVY VEHICLE USE TAX

AN ACT Relating to registration of motor vehicles; adding a new section to chapter 46.16 RCW; adding a new section to chapter 46.85 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

The department may refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the internal revenue code of 1954 has been paid.

The department may adopt rules as deemed necessary to administer this section.

NEW SECTION. Sec. 2. A new section is added to chapter 46.85 RCW to read as follows:

The department may refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the internal revenue code of 1954 has been paid.

The department may adopt rules as deemed necessary to administer this section.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 80

[Substitute House Bill No. 15]

PUBLIC WORKS—LIENS—PREVAILING WAGE CLAIMANTS HAVE PRIORITY

AN ACT Relating to public works; and amending RCW 60.28.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 236, Laws of 1955 as amended by section 1, chapter 299, Laws of 1971 ex. sess. and RCW 60.28.040 are each amended to read as follows:

The amount of all taxes, increases and penalties due or to become due under Title 82 RCW, from a contractor or ~~((his))~~ the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract, ~~((and))~~ except that the employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under such a public improvement contract shall have a first priority lien against the bond or retainage prior to all other liens. The amount of all other taxes, increases and penalties due and owing

from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

Passed the House February 27, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 81

[House Bill No. 213]

PORT DISTRICT COMMISSIONERS—HEALTH AND ACCIDENT INSURANCE

AN ACT Relating to insurance for port district commissioners; and amending RCW 53.08.170.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 64, Laws of 1955 as last amended by section 1, chapter 6, Laws of 1973 1st ex. sess. and RCW 53.08.170 are each amended to read as follows:

The port commission shall have authority to create and fill positions, to fix wages, salaries and bonds thereof, to pay costs and assessments involved in securing or arranging to secure employees, and to establish such benefits for employees, including holiday pay, vacations or vacation pay, retirement and pension benefits, medical, surgical or hospital care, life, accident, or health disability insurance, and similar benefits, already established by other employers of similar employees, as the port commissioner shall by resolution provide: PROVIDED, That any district providing insurance benefits for its employees in any manner whatsoever may provide health and accident insurance, and business related travel, liability, ((health,)) and errors and omissions ((and accident)) insurance, for its commissioners, which insurance shall not be considered to be compensation.

The port commission shall have authority to provide or pay such benefits directly, or to provide for such benefits by the purchase of insurance policies or entering into contracts with and compensating any person, firm, agency or organization furnishing such benefits, or by making contributions to vacation plans or funds, or health and welfare plans and funds, or pension plans or funds, or similar plans or funds, already established by other employers of similar employees and in which the port district is permitted to participate for particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds: PROVIDED FURTHER, That no port district employee shall be allowed to apply for admission to or be accepted as a member of the state employees' retirement system after January 1, 1965 if admission to such system would result in coverage under both a private pension system and

the state employees' retirement system, it being the purpose of this proviso that port districts shall not at the same time contribute for any employee to both a private pension or retirement plan and to the state employees' retirement system. The port commission shall have authority by resolution to utilize and compensate agents for the purpose of paying, in the name and by the check of such agent or agents or otherwise, wages, salaries and other benefits to employees, or particular classifications thereof, and for the purpose of withholding payroll taxes and paying over tax moneys so withheld to appropriate government agencies, on a combined basis with the wages, salaries, benefits, or taxes of other employers or otherwise; to enter into such contracts and arrangements with and to transfer by warrant such funds from time to time to any such agent or agents so appointed as are necessary to accomplish such salary, wage, benefit, or tax payments as though the port district were a private employer, notwithstanding any other provision of the law to the contrary. The funds of a port district transferred to such an agent or agents for the payment of wages or salaries of its employees in the name or by the check of such agent or agents shall be subject to garnishment with respect to salaries or wages so paid, notwithstanding any provision of the law relating to municipal corporations to the contrary.

Passed the House February 27, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 82

[Engrossed House Bill No. 142]

MARRIAGE PROCEDURES MODIFIED

AN ACT Relating to marriages; and amending RCW 26.04.140, 26.04.160, 26.04.170, 26.04.180, and 26.04.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 204, Laws of 1939 and RCW 26.04.140 are each amended to read as follows:

Before any persons can be joined in marriage, they shall procure a license from a county auditor, as provided in RCW 26.04.150 through 26.04.190 (~~provided, authorizing any person or religious organization or congregation to join together the persons therein named as husband and wife~~)).

Sec. 2. Section 4, chapter 204, Laws of 1939 as amended by section 7, chapter 26, Laws of 1967 and RCW 26.04.160 are each amended to read as follows:

Application for such marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose (~~(at least three full days before the license shall be issued)~~), which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, (~~(color, occupation;)~~) birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months(~~(, together with the name and address of at least one competent witness who can testify that the residence given by the applicant is bona fide)~~): PROVIDED, That each county may require such other and further information on said application as it shall deem necessary.

Sec. 3. Section 5, chapter 204, Laws of 1939 and RCW 26.04.170 are each amended to read as follows:

Any such application shall be open to public inspection as a part of the records of the office of such county auditor(~~(, and all applications which have been filed within three days shall be kept separately, and readily accessible to public examination)~~).

Sec. 4. Section 1, chapter 107, Laws of 1953 as last amended by section 1, chapter 128, Laws of 1979 ex. sess. and RCW 26.04.180 are each amended to read as follows:

~~((The county auditor shall issue no license until the third full day following the filing of the application, exclusive of the date of filing.))~~ The county auditor may issue the marriage license at the time of application, but shall issue such license no later than the third full day following the date of the application. A marriage license issued pursuant to the provisions of this chapter may not be used until three days after the date of application and shall become void if the marriage is not solemnized within sixty days of the date of the issuance of the license, and the county auditor shall notify the applicant in writing of this requirement at the time of issuance of the license.

Sec. 5. Sections 13 and 14, page 83, Laws of 1866 as last amended by section 2, chapter 128, Laws of 1979 ex. sess. and RCW 26.04.210 are each amended to read as follows:

The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in his office upon blanks to be provided by the county for that purpose, an affidavit showing that they are not afflicted with any contagious venereal disease(~~(. He shall also require an affidavit of some disinterested credible person showing that neither of said persons is an habitual criminal;)~~) and that the applicants are the age of eighteen years or over: PROVIDED, FURTHER, That if the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license

is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington.

Passed the House February 18, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 83

[House Bill No. 149]

PERSONAL PROPERTY—ACTIONS THAT WOULD JEOPARDIZE TAX COLLECTION—DISTRAINT PAPERS

AN ACT Relating to taxation of personal property; and amending RCW 84.56.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 84.56.090, chapter 15, Laws of 1961 and RCW 84.56-.090 are each amended to read as follows:

Whenever in the judgment of the assessor or the county treasurer personal property is being removed or is about to be removed without the limits of the state, or is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the treasurer shall immediately prepare papers in distraint, which shall contain a description of the personal property being or about to be removed ((or)), dissipated, sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the amount of the tax, the amount of accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner, and he shall without demand or notice distraint sufficient goods and chattels belonging to the person charged with such taxes to pay the same with interest at the rate provided by law from the date of delinquency, together with all accruing costs, and shall advertise and sell said property as provided in RCW 84.56.070.

If said personal property is being removed or is about to be removed from the limits of the state, is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, at any time subsequent to the first day of January in any year, and prior to the levy of taxes thereon, the taxes upon such property so distrained shall be computed upon the rate of levy for

state, county and local purposes for the preceding year; and all taxes collected in advance of levy under this section and RCW 84.56.120, together with the name of the owner and a brief description of the property assessed shall be entered forthwith by the county treasurer upon the personal property tax rolls of such preceding year, and all collections thereon shall be considered and treated in all respects, and without recourse by either the owner or any taxing unit, as collections for such preceding year. Property on which taxes are thus collected shall thereupon become discharged from the lien of any taxes that may thereafter be levied in the year in which payment or collection is made.

Whenever property has been removed from the county wherein it has been assessed, on which the taxes have not been paid, then the county treasurer, or his deputy, shall have the same power to distrain and sell said property for the satisfaction of said taxes as he would have if said property were situated in the county in which the property was taxed, and in addition thereto said treasurer, or his deputy, in the distraint and sale of property for the payment of taxes, shall have the same powers as are now by law given to the sheriff in making levy and sale of property on execution.

Passed the House February 20, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 84

[Substitute House Bill No. 565]

COUNTY TREASURER AS LOCAL GOVERNMENT FISCAL AGENT

AN ACT Relating to county fiscal agents; and amending RCW 39.46.030, 39.44.130, and 43.80.125.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 167, Laws of 1983 and RCW 39.46.030 are each amended to read as follows:

(1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3) (a) The state or a local government may appoint one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency so acting. The state and local governments may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.

(b) Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision is made.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section.

Sec. 2. Section 3, chapter 91, Laws of 1915 as last amended by section 110, chapter 167, Laws of 1983 and RCW 39.44.130 are each amended to read as follows:

(1) The duties prescribed in this chapter as to the registration of bonds of any city or town shall be performed by the treasurer thereof, and as to those of any county, port or school district by the county treasurer of the county in which such port or school district lies; but any county, city, town, port or school district may designate by resolution any other officer for the

performance of such duties, and any county, city, town, port or school district may designate by resolution its legally designated fiscal agency or agencies for the performance of such duties, after making arrangements with such fiscal agency therefor, which arrangements may include provision for the payment by the bond owner of a fee for each registration.

(2) Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision is made.

Sec. 3. Section 11, chapter 167, Laws of 1983 and RCW 43.80.125 are each amended to read as follows:

(1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state or a local government to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner.

(3) Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision is made.

Passed the House March 14, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 85

[Engrossed House Bill No. 830]

BUSINESS SITING—FACILITATION

AN ACT Relating to business siting; adding a new section to chapter 43.63A RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.63A RCW to read as follows:

The department shall assist local governments to facilitate the siting of businesses in the state. This shall include:

(1) Developing policy guidelines and administrative procedures and practices that may be used by local governments to facilitate the siting and expansion of businesses;

(2) Developing model local government ordinances which facilitate the siting and expansion of businesses; and

(3) Providing, when requested, assistance to local governments in implementing the department's proposals which assist businesses.

The department shall revise its proposals as it considers appropriate. The initial proposals shall be compiled by November 1, 1985. The department shall report to the legislature by January 1, 1986, outlining the department's activities, progress in assisting local governments and businesses, and recommendations on legislative action to further facilitate the development of businesses within the boundaries of local governments.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 18, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 86

[House Bill No. 310]

GAMBLING FOR COIN-OPERATED MUSIC

AN ACT Relating to gambling for coin-operated music; and amending RCW 9.46.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 139, Laws of 1981 as amended by section 1, chapter 207, Laws of 1984 and RCW 9.46.020 are each amended to read as follows:

(1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;
- (e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and
- (f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

The legislature hereby authorizes the wagering on the outcome of the roll of dice or the flipping of or matching of coins on the premises of an establishment engaged in the business of selling food or beverages for consumption on the premises to determine which of the participants will pay for coin-operated music on the premises or certain items of food or beverages served or sold by such establishment and therein consumed. Such establishments are hereby authorized to possess dice and dice cups on their premises, but only for use in such limited wagering. Persons engaged in such limited form of wagering shall not be subject to the criminal or civil penalties otherwise provided for in this chapter: PROVIDED, That minors shall be barred from engaging in the wagering activities allowed by this chapter.

(2) "Bingo" means a game conducted only in the county within which the organization is principally located in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the

same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. For the purposes of this subsection the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer: PROVIDED, That any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981 shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located.

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. Such an organization must have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required. It must have not less than fifteen bona fide active members each with the right to an equal vote in the election of the officers, or board members, if any, who determine the policies of the organization in order to receive a gambling license. An organization must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(4) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

(6) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(7) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(8) "Fishing derby" means a fishing contest, with or without the payment or giving of an entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight, or quality of fish caught in a bona fide fishing or recreational event.

(9) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of this section shall not constitute gambling.

(10) "Gambling device" means: (a) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for

the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. But in the application of this definition, a pinball machine or similar mechanical amusement device which confers only an immediate and unrecorded right of replay on players thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won or a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: PROVIDED FURTHER, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: PROVIDED FURTHER, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(11) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: PROVIDED, HOWEVER, That this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

(12) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found, shall be presumed to be intended to be used for professional gambling.

(13) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

(14) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state;

(d) Visitation to any business establishment to obtain a coupon, or entry blank;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material;

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer;

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: **PROVIDED**, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and the period of the drawing and its promotion shall not extend for more than seven consecutive days: **PROVIDED FURTHER**, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the initial opening of any such outlet; or

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast

programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(15) "Member" and "bona fide member". As used in this chapter, member and bona fide member each mean a person accepted for membership in an organization eligible to be licensed by the commission under this chapter upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to participating in the management or operation of any gambling activity. Such membership must in no way be dependent upon, or in any way related to, the payment of consideration to participate in any gambling activity.

Member or bona fide member shall include only members of an organization's specific chapter or unit licensed by the commission or otherwise actively conducting the gambling activity: PROVIDED, That

(a) Members of chapters or local units of a state, regional or national organization may be considered members of the parent organization for the purpose of a gambling activity conducted by the parent organization, if the rules of the parent organization so permit;

(b) Members of a bona fide auxiliary to a principal organization may be considered members of the principal organization for the purpose of a gambling activity conducted by the principal organization. Members of the principal organization may also be considered members of its auxiliary for the purpose of a gambling activity conducted by the auxiliary; and

(c) Members of any chapter or local unit within the jurisdiction of the next higher level of the parent organization, and members of a bona fide auxiliary to that chapter or unit, may assist any other chapter or local unit of that same organization licensed by the commission in the conduct of gambling activities.

No person shall be a member of any organization if that person's primary purpose for membership is to become, or continue to be, a participant in, or an operator or manager of, any gambling activity or activities.

(16) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as

inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(17) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (14) of this section.

Conduct under subparagraph (a), except as exempted under RCW 9.46.030 as now or hereafter amended, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling: PROVIDED, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this chapter: PROVIDED, FURTHER, That the books and records of the games shall be open to public inspection.

(18) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of July 16, 1973, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(19) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or

prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(20) "Social card game" means a card game, including but not limited to the game commonly known as "Mah Jongg", which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players: PROVIDED, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing in excess of one dollar per half hour of playing time by that person collected in advance: PROVIDED, That a fee may also be charged for entry into a tournament for prizes, which fee shall not exceed twenty-five dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: PROVIDED FURTHER, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization; and

(e) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to RCW 9.46.070.

(21) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(22) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by

his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(23) "Fund raising event" means a fund raising event conducted during any seventy-two consecutive hours but exceeding twenty-four consecutive hours and not more than once in any calendar year or a fund raising event conducted not more than twice each calendar year for not more than twenty-four consecutive hours each time by a bona fide charitable or nonprofit organization as defined in subsection (3) of this section other than any agricultural fair referred to thereunder, upon authorization therefor by the commission, which the legislature hereby authorizes to issue a license therefor, with or without fee, permitting the following activities, or any of them, during such event: Bingo, amusement games, contests of chance, lotteries and raffles: PROVIDED, That (a) gross wagers and bets received by the organization less the amount of money paid by the organization as winnings and for the purchase cost of prizes given as winnings do not exceed ten thousand dollars during the total calendar days of such fund raising event in the calendar year; (b) such activities shall not include any mechanical gambling or lottery device activated by the insertion of a coin or by the insertion of any object purchased by any person taking a chance by gambling in respect to the device; (c) only bona fide members of the organization who are not paid for such service shall participate in the management or operation of the activities, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization; and (d) such organization shall notify the appropriate local law enforcement agency of the time and place where such activities shall be conducted. The commission shall require an annual information report setting forth in detail the expenses incurred and the revenue received relative to the activities permitted.

Bona fide charitable or nonprofit organizations holding a license to conduct a fund raising event may joint [join] together to jointly conduct a fund raising event if:

(i) Approval to do so is received from the commission; and

(ii) The method of dividing the income and expenditures and the method of recording and handling of funds are disclosed to the commission in the application for approval of the joint fund raising event and are approved by the commission.

The gross wagers and bets received by the organizations less the amount of money paid by the organizations as winnings and for the purchase costs of prizes given as winnings may not exceed ten thousand dollars during the total calendar days of such event. The net receipts each organization receives shall count against the organization's annual limit stated in this subsection.

A joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the net receipts for

the purposes of the number of such events an organization may conduct each year.

The commission may issue a joint license for a joint fund raising event and charge a license fee for such license according to a schedule of fees adopted by the commission which reflects the added cost to the commission of licensing more than one licensee for the event.

Passed the House February 27, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

Filed in Office of Secretary of State April 18, 1985.

CHAPTER 87

[Substitute Senate Bill No. 3001]

PORT COMMISSIONER VACANCIES

AN ACT Relating to port commissioner vacancies; and amending RCW 53.12.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 17, Laws of 1959 as last amended by section 1, chapter 11, Laws of 1983 and RCW 53.12.150 are each amended to read as follows:

A vacancy in the office of port commissioner created by death, resignation, or otherwise, shall be filled as follows:

(1) If there are simultaneously such number of vacancies that less than a majority of the full number of commissioners fixed by law remain in office, the legislative authority of the county shall within ~~((fifteen))~~ thirty days of such vacancies appoint the number of commissioners necessary to provide a majority. The commissioners thus appointed, together with any remaining commissioners, shall then, within ~~((fifteen))~~ sixty days of their appointment, meet and appoint the number of commissioners needed to complete the board of commissioners. However, if they fail to fill the remaining vacancies within this ~~((fifteen))~~ sixty-day period, the legislative authority of the county shall make the necessary appointments.

(2) If a majority of the full number of commissioners fixed by law remains on the board, the remaining commissioners shall fill any vacancies. However, if they fail to fill any vacancy within ~~((fifteen))~~ sixty days of its occurrence, ~~((or within fifteen days after March 10, 1983;))~~ the legislative authority of the county shall make the necessary appointment.

(3) ~~((Appointments made pursuant to this section shall be ad-interim to the next general election:))~~ A person appointed to fill a vacancy in the office of port commissioner shall serve until a successor is elected and qualified at the next district general election occurring sixty or more days after

the vacancy has occurred. The person who is elected shall take office immediately after he or she is qualified and shall serve the remainder of the unexpired term. However, if at this next district general election an election would have otherwise been held to elect a person to the position in which a vacancy has occurred, a separate election shall not be held to elect a person to fill the vacancy during the remainder of the unexpired term. The person who is elected at this election for this position shall take office immediately upon being qualified and shall serve for both the remainder of the unexpired term in addition to the full term to which he or she is elected.

Passed the Senate April 10, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 88

[Senate Bill No. 3143]

TRADE NAMES

AN ACT Relating to trade names; and amending RCW 19.80.035.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 130, Laws of 1984 and RCW 19.80.035 are each amended to read as follows:

~~((Within one year after October 1, 1984))~~ On or before October 1, 1986, each person who registered a trade name prior to October 1, 1984, and is conducting or transacting business in this state under that trade name, shall reregister the trade name under this chapter. All reregistrations shall be executed under RCW 19.80.010 and shall be accompanied by a fee of five dollars or the fee set under RCW 19.80.045. Within three years of October 1, 1984, the department of licensing shall devise and implement a no-fee system for identifying and purging trade name registrations that have become inactive. Failure to reregister ~~((within one year of October 1, 1984))~~ on or before October 1, 1986, terminates the previous registration.

Passed the Senate February 21, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 89

[Engrossed Senate Bill No. 3273]

MUTUAL AID PEACE OFFICERS POWERS ACT

AN ACT Relating to law enforcement; adding a new chapter to Title 10 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) This chapter may be known and cited as the Washington mutual aid peace officer powers act of 1985.

(2) It is the intent of the legislature that current artificial barriers to mutual aid and cooperative enforcement of the laws among general authority local, state, and federal agencies be modified pursuant to this chapter.

(3) This chapter shall be liberally construed to effectuate the intent of the legislature to modify current restrictions upon the limited territorial and enforcement authority of general authority peace officers and to effectuate mutual aid among agencies.

(4) The modification of territorial and enforcement authority of the various categories of peace officers covered by this chapter shall not create a duty to act in extraterritorial situations beyond any duty which may otherwise be imposed by law or which may be imposed by the primary commissioning agency.

NEW SECTION. Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol is a general authority Washington law enforcement agency.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, fisheries, game, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of

the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this act, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more

other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

NEW SECTION. Sec. 3. The circumstances surrounding any actual exercise of peace officer authority under this chapter shall be timely reported, after the fact, to the Washington law enforcement agency with primary territorial jurisdiction and shall be subject to any reasonable reporting procedure which may be established by such agency.

NEW SECTION. Sec. 4. Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by an officer acting within the course and scope of the officer's duties as a peace officer under this chapter is the responsibility of the primary commissioning agency unless the officer acts under the direction and control of another agency or unless the liability is otherwise allocated under a written agreement between the primary commissioning agency and another agency.

NEW SECTION. Sec. 5. All persons exercising peace officer powers under this chapter are subject to supervisory control of and limitations imposed by the primary commissioning agency, but the primary commissioning agency may, by agreement with another agency, temporarily delegate supervision over the peace officer to another agency.

NEW SECTION. Sec. 6. All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, all pension, relief, disability, worker's compensation insurance, and other benefits which apply to the activity of officers, agents, or employees of any law enforcement agency when performing their respective functions within the territorial limits of their respective agencies shall apply to them and to their primary commissioning agencies to the same degree and extent while such persons are engaged in the performance of authorized functions and duties under this chapter.

NEW SECTION. Sec. 7. In addition to any other powers vested by law, a general authority Washington peace officer who possesses a certificate of basic law enforcement training or a certificate of equivalency or has been exempted from the requirement therefor by the Washington state criminal justice training commission may enforce the traffic or criminal laws of this state throughout the territorial bounds of this state, under the following enumerated circumstances:

(1) Upon the prior written consent of the sheriff or chief of police in whose primary territorial jurisdiction the exercise of the powers occurs;

(2) In response to an emergency involving an immediate threat to human life or property;

(3) In response to a request for assistance pursuant to a mutual law enforcement assistance agreement with the agency of primary territorial jurisdiction or in response to the request of a peace officer with enforcement authority;

- (4) When the officer is transporting a prisoner;
 - (5) When the officer is executing an arrest warrant or search warrant;
- or
- (6) When the officer is in fresh pursuit, as defined in section 12 of this act.

NEW SECTION. Sec. 8. A limited authority Washington peace officer shall have no additional powers by virtue of this chapter but shall be limited to those powers already vested by law or hereafter created by separate enactment.

NEW SECTION. Sec. 9. A specially commissioned Washington peace officer who has successfully completed a course of basic training prescribed or approved for such officers by the Washington state criminal justice training commission may exercise any authority which the special commission vests in the officer, throughout the territorial bounds of the state, outside of the officer's primary territorial jurisdiction under the following circumstances:

- (1) The officer is in fresh pursuit, as defined in section 12 of this act;
- (2) The officer is acting pursuant to mutual law enforcement assistance agreement between the primary commissioning agency and the agency with primary territorial jurisdiction.

NEW SECTION. Sec. 10. Federal peace officers shall have no additional powers by virtue of this chapter but shall be limited to those powers already vested by law or hereafter created by separate enactment.

NEW SECTION. Sec. 11. The attorney general shall have no additional powers by virtue of this chapter but shall be limited to those powers already vested by law or hereafter created by separate enactment.

NEW SECTION. Sec. 12. (1) Any peace officer who has authority under Washington law to make an arrest may proceed in fresh pursuit of a person (a) who is reasonably believed to have committed a violation of traffic or criminal laws, or (b) for whom such officer holds a warrant of arrest, and such peace officer shall have the authority to arrest and to hold such person in custody anywhere in the state.

(2) The term "fresh pursuit," as used in this chapter, includes, without limitation, fresh pursuit as defined by the common law. Fresh pursuit does not necessarily imply immediate pursuit, but pursuit without unreasonable delay.

NEW SECTION. Sec. 13. Under the interlocal cooperation act, chapter 39.34 RCW, any law enforcement agency referred to by this chapter may contract with any other such agency and may also contract with any law enforcement agency of another state, or such state's political subdivision, to provide mutual law enforcement assistance. The agency with primary territorial jurisdiction may require that officers from participating

agencies meet reasonable training or certification standards or other reasonable standards.

NEW SECTION. Sec. 14. This chapter does not limit the scope of jurisdiction and authority of the Washington state patrol as otherwise provided by law, and the Washington state patrol shall not be bound by the reporting requirements of section 3 of this act.

NEW SECTION. Sec. 15. In order to further the intent of this chapter, the Washington association of sheriffs and police chiefs is hereby directed to develop a state-wide plan for the delivery of law enforcement mutual aid services and present such a plan to the legislature by January 1, 1986.

NEW SECTION. Sec. 16. Sections 1 through 14 of this act shall constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 17. This act shall take effect July 1, 1985.

Passed the Senate February 27, 1985.

Passed the House April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 90

[Substitute Senate Bill No. 3598]

SERVICE DOGS—PHYSICALLY DISABLED PERSONS

AN ACT Relating to physically disabled persons; amending RCW 70.84.030, 70.84.040, 70.84.060, 70.84.070, and 49.60.215; and adding a new section to chapter 70.84 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.84 RCW to read as follows:

For the purpose of this chapter, "service dog" means a dog that is trained or approved by an accredited school, or state institution of higher education, engaged in training dogs for the purposes of assisting or accommodating a physically disabled person related to the person's physical disability.

Sec. 2. Section 3, chapter 141, Laws of 1969 as amended by section 3, chapter 109, Laws of 1980 and RCW 70.84.030 are each amended to read as follows:

Every totally or partially blind ((σ)), hearing impaired, or otherwise physically disabled person shall have the right to be accompanied by a guide dog or service dog in any of the places listed in RCW 70.84.010(3) without being required to pay an extra charge for the guide dog or service dog. It shall be unlawful to refuse service to a blind ((σ)), hearing impaired, or

otherwise physically disabled person in any such place solely because ((he)) the person is accompanied by a guide dog or service dog.

Sec. 3. Section 4, chapter 141, Laws of 1969 as last amended by section 4, chapter 109, Laws of 1980 and RCW 70.84.040 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip) ((σ)), a totally or partially blind or hearing impaired pedestrian using a guide dog, or an otherwise physically disabled person using a service dog shall take all necessary precautions to avoid injury to such pedestrian. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, such pedestrian, crossing or attempting to cross the roadway, if such pedestrian indicates his intention to cross or of continuing on, with a timely warning by holding up or waving a white cane, ((σ)) using a guide dog, or using a service dog. The failure of any such pedestrian so to signal shall not deprive him of the right of way accorded him by other laws.

Sec. 4. Section 6, chapter 141, Laws of 1969 as amended by section 6, chapter 109, Laws of 1980 and RCW 70.84.060 are each amended to read as follows:

It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or is not hearing impaired to use a guide dog or any pedestrian who is not otherwise physically disabled to use a service dog in any of the places, accommodations, or conveyances listed in RCW 70.84.010 for the purpose of securing the rights and privileges accorded by the chapter to totally or partially blind ((σ)), hearing impaired, or otherwise physically disabled people.

Sec. 5. Section 7, chapter 141, Laws of 1969 as amended by section 7, chapter 109, Laws of 1980 and RCW 70.84.070 are each amended to read as follows:

Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation, who denies or interferes with admittance to or enjoyment of the public facilities enumerated in RCW 70.84.010, or otherwise interferes with the rights of a totally or partially blind ((σ)), hearing impaired, or otherwise physically disabled person as set forth in RCW 70.84.010 shall be guilty of a misdemeanor.

Sec. 6. Section 14, chapter 37, Laws of 1957 as amended by section 7, chapter 127, Laws of 1979 and RCW 49.60.215 are each amended to read as follows:

It shall be an unfair practice for any person or his agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, the presence of any sensory, mental, or physical handicap, or the use of a trained dog guide by a blind ((or)), deaf, or physically disabled person: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a handicapped person except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

Passed the Senate March 13, 1985.

Passed the House April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 91

[Substitute Senate Bill No. 3309]

COUNTIES—VARIOUS LICENSES MODIFIED

AN ACT Relating to counties; amending RCW 36.32.120, 36.53.020, 36.71.020, 36.71.030, 36.71.040, 36.71.050, 36.71.080, 67.12.030, 67.12.050, and 67.12.110; and repealing RCW 36.49.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 3, chapter 226, Laws of 1982 and RCW 36.32.120 are each amended to read as follows:

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: PROVIDED, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: PROVIDED FURTHER, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice

shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace.

Sec. 2. Section 36.53.020, chapter 4, Laws of 1963 and RCW 36.53-.020 are each amended to read as follows:

The ~~((board of county commissioners shall))~~ county legislative authority may charge such sum as ((appears reasonable— not less than one dollar nor more than one hundred dollars per year—)) may be fixed under the authority of RCW 36.32.120(3) for such license, and the person to whom the license is granted shall pay to the appropriate county ((treasurer)) official the tax for one year in advance ~~((—taking his receipt therefor; and upon the production of such receipt the county auditor shall issue the license under the seal of his office)).~~

Sec. 3. Section 36.71.020, chapter 4, Laws of 1963 and RCW 36.71-.020 are each amended to read as follows:

Every peddler, before commencing business in any county of the state, shall apply in writing and under oath to the appropriate county ((treasurer)) official of the county in which he proposes to operate for a county license. The application must state the names and residences of the owners or parties in whose interest the business is to be conducted ~~((—and shall state the number of horses and/or vehicles to be used)).~~ The applicant at the same time shall file a true statement under oath of the quantity and value of the stock of goods, wares, and merchandise that is in the county for sale or to be kept or exposed for sale in the county, make a special deposit of five hundred dollars ((with the county treasurer)), and pay the ((treasurer the)) county license fee as ((follows:

(1) Peddler on foot, one hundred dollars.

(2) Peddler with one horse and a wagon, one hundred fifty dollars.

(3) Peddler with two horses and a wagon, two hundred fifty dollars.

(4) Peddler with any other conveyance, three hundred dollars)) may be fixed under the authority of RCW 36.32.120(3).

The appropriate county ((treasurer)) official shall thereupon issue to the applicant a peddler's license, authorizing him to do business in the county for the term of one year from the date thereof. Every county license shall contain a copy of the application therefor, shall not be transferable,

and shall not authorize more than one person to sell goods as a peddler, either by agent or clerk, or in any other way than his own proper person.

Sec. 4. Section 36.71.030, chapter 4, Laws of 1963 and RCW 36.71-.030 are each amended to read as follows:

The appropriate county ((treasurer)) official of each county shall keep on file all applications for peddlers' licenses that are issued. All files and records ~~((of the county treasurer))~~ shall be in convenient form and open to public inspection.

Sec. 5. Section 36.71.040, chapter 4, Laws of 1963 and RCW 36.71-.040 are each amended to read as follows:

Upon the expiration and return of a county license, the appropriate county ((treasurer)) official shall cancel it, indorse thereon the cancellation, and place it on file. After holding the special deposit of the licensee for a period of ninety days from the date of cancellation, he shall return the deposit or such portion as may remain in his hands after satisfying the claims made against it.

Sec. 6. Section 36.71.050, chapter 4, Laws of 1963 and RCW 36.71-.050 are each amended to read as follows:

Each deposit made with the county ~~((treasurer))~~ shall be subject to all taxes legally chargeable thereto, to attachment and execution on behalf of the creditors of the licensee whose claims arise in connection with the business done under his license, and the ~~((treasurer))~~ county may be held to answer as trustee in any civil action in contract or tort brought against any licensee, and shall pay over, under order of the court or upon execution, such amount of money as the licensee may be chargeable with upon the final determination of the case. Such deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violations of the provisions of RCW 36.71.010, 36.71.020, 36.71.030, 36.71.040 and 36.71.060, which shall be a lien upon the deposit and shall be collected in the manner provided by law.

Sec. 7. Section 36.71.080, chapter 4, Laws of 1963 and RCW 36.71-.080 are each amended to read as follows:

The ~~((board of county commissioners))~~ county legislative authority may, by its order, direct the ~~((county auditor))~~ appropriate county official to issue a license to any person to do any business designated in RCW 36.71.070 for such sum ~~((not exceeding twenty-five dollars per year as it deems proper and expedient))~~ as may be fixed under the authority of RCW 36.32.120(3).

Sec. 8. Section 3, chapter 111, Laws of 1923 and RCW 67.12.030 are each amended to read as follows:

The ~~((board of county commissioners))~~ county legislative authority of each county ~~((shall))~~ may, by a general order, from time to time, fix the fees to be charged for licenses granted ~~((hereunder, such fees, however, not~~

~~to be less than twenty-five dollars nor more than two hundred and fifty dollars for an annual dance hall license, nor less than ten dollars nor more than seventy-five dollars for a quarterly license, nor less than one dollar nor more than ten dollars for a license for a single dance))~~ under RCW 67.12.020 subject to the limitations of RCW 36.32.120(3). The county (~~commissioners~~) legislative authority may issue a permit without charge for grange, patriotic, fraternal or community dances.

Sec. 9. Section 5, chapter 111, Laws of 1923 and RCW 67.12.050 are each amended to read as follows:

Applications for licenses hereunder shall be filed with the (~~clerk of the board of~~) appropriate county (~~commissioners~~) official and be accompanied with (~~a receipt showing the payment to the county treasurer of a~~) the license fee. After determining to grant a license to the applicant, the (~~board~~) county legislative authority shall notify the (~~county auditor~~) appropriate official, who shall issue the license to the applicant. All licenses granted hereunder shall be kept posted in a conspicuous place on the licensed premises.

Sec. 10. Section 1, chapter 112, Laws of 1909 and RCW 67.12.110 are each amended to read as follows:

The (~~board of county commissioners~~) county legislative authority of each county in the state of Washington shall have sole and exclusive authority and power to regulate, restrain, license, or prohibit the maintenance or running of pool halls, billiard halls, and bowling alleys outside of the incorporated limits of each incorporated city, town, or village in their respective counties: PROVIDED, That the annual license fee for maintenance or running such pool halls, billiard halls, and bowling alleys shall (~~in no instance be less than twenty-five dollars nor more than two hundred and fifty dollars;~~) be fixed in accordance with RCW 36.32.120(3), and which (~~said~~) license fee shall be paid annually in advance to the appropriate county (~~treasurer~~) official: (~~AND~~) PROVIDED FURTHER, That nothing herein or elsewhere shall be so construed as to prevent the (~~boards of county commissioners of the respective counties~~) county legislative authority from revoking any license at any time prior to the expiration thereof for any cause by such (~~board of county commissioners~~) county legislative authority deemed proper. And if said county (~~commissioners revoke~~) legislative authority revokes said license (~~they~~) it shall refund the unearned portion of such license.

NEW SECTION. Sec. 11. Section 36.49.010, chapter 4, Laws of 1963 and RCW 36.49.010 are each repealed.

Passed the Senate April 10, 1985.

Passed the House March 29, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 92

[Engrossed Senate Bill No. 3214]

CITIES AND COUNTIES—ECONOMIC DEVELOPMENT DEEMED A PUBLIC PURPOSE

AN ACT Relating to cities and counties; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

NEW SECTION. Sec. 2. A new section is added to chapter 36.01 RCW to read as follows:

It shall be in the public purpose for all counties to engage in economic development programs. In addition, counties may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 10, 1985.

Passed the House April 3, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 93

[Substitute Senate Bill No. 3170]

NATURAL RESOURCES COMPREHENSIVE ANNUAL REPORTS BY DEPARTMENTS OF FISHERIES, GAME, AND NATURAL RESOURCES

AN ACT Relating to annual reports on natural resources; amending RCW 75.08.020 and 79.01.744; and adding a new section to chapter 77.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.08.020, chapter 12, Laws of 1955 as last amended by section 7, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.08.020 are each amended to read as follows:

(1) The director shall investigate the habits, supply, and economic use of food fish and shellfish in state and offshore waters.

(2) The director shall make an annual report to the governor on the operation of the department and the statistics of the fishing industry.

(3) The director shall provide a comprehensive annual report of all departmental operations to the legislature on or before October 30 of each year to reflect the previous fiscal year. The format of the report shall be similar to reports issued by the department from 1964-1970 and the report shall include, but not be limited to, descriptions of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resource and its recreational, commercial, and tribal utilization. The report shall be given to the house and senate committees on ways and means and the house and senate committees on natural resources and shall be made available to the public.

NEW SECTION. Sec. 2. A new section is added to chapter 77.04 RCW to read as follows:

The director shall provide a comprehensive annual report of all departmental operations to the legislature on or before October 30 of each year to reflect the previous fiscal year. The report shall include, but not be limited to, descriptions of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resource and its recreational and tribal utilization.

The report shall be given to the house and senate committees on ways and means and the house and senate committees on natural resources and shall be made available to the public.

Sec. 3. Section 196, chapter 255, Laws of 1927 and RCW 79.01.744 are each amended to read as follows:

(1) It shall be the duty of the commissioner of public lands to report, and recommend, to each session of the legislature, any changes in the law relating to the methods of handling the public lands of the state that he may deem advisable.

(2) The commissioner of public lands shall provide a comprehensive annual report to the legislature on or before October 30 of each year to reflect the previous fiscal year. The report shall include, but not be limited to, descriptions of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, the adopted sustainable harvest compared to

the sales program, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resources managed and the recreational and commercial utilization. The report shall be given to the house and senate committees on ways and means and the house and senate committees on natural resources and shall be made available to the public.

Passed the Senate April 10, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 94

[Substitute Senate Bill No. 3180]

COMPREHENSIVE SALARY AND FRINGE BENEFIT SURVEYS—TREND SALARY AND FRINGE BENEFIT SURVEYS

AN ACT Relating to salary surveys; and amending RCW 28B.16.110, 41.06.160, and 41.06.167.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 36, Laws of 1969 ex. sess. as last amended by section 3, chapter 11, Laws of 1980 and RCW 28B.16.110 are each amended to read as follows:

The salary schedules and compensation plans, adopted and revised as provided in RCW 28B.16.100 as now or hereafter amended, shall reflect prevailing rates in other public employment and in private employment in this state or in the locality in which the institution or related board is located. For this purpose comprehensive salary and fringe benefit surveys shall be undertaken by the board with the assistance of the various personnel officers of the institutions of higher education and on a joint basis with the department of personnel, with such surveys to be conducted ((at least)) in the year prior to the convening of ((each)) every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the board with assistance of the various personnel officers of the institutions of higher education and on a joint basis with the department of personnel, shall conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of ((such)) each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with recommended salary adjustments, which recommendations shall be advisory only, to the governor and the director of financial management for their use in preparing budgets to be submitted to the succeeding legislature.

A copy of the data and supporting documentation shall be furnished by the board to the standing committees for appropriations of the senate and house of representatives.

In the case of comprehensive salary and fringe benefit surveys, the board shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the higher education personnel board with:

(a) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(b) Those higher education personnel board classes which are substantially the same as classes being used by the department of personnel clearly marked to show the commonality of the classes between the two jurisdictions;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented

when forwarded by the board. Further, it is the intention of the legislature that the department of personnel and the higher education personnel board jointly determine job classes which are substantially common to both jurisdictions and that basic salaries for these job classes shall be equal based on salary and fringe benefit survey findings.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.

Sec. 2. Section 16, chapter 1, Laws of 1961 as last amended by section 1, chapter 11, Laws of 1980 and RCW 41.06.160 are each amended to read as follows:

In preparing classification and salary schedules as set forth in RCW 41.06.150 as now or hereafter amended the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys to be planned and conducted on a joint basis with the higher education personnel board, with such surveys to be conducted ((at least)) in the year prior to the convening of ((each)) every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct on a joint basis with the higher education personnel board a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.

In the case of comprehensive salary and fringe benefit surveys, the department shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with:

(a) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(b) Those department of personnel classes which are substantially the same as classes being used by the higher education personnel board clearly marked to show the commonality of the classes between the two jurisdictions;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel. Further, it is the intention of the legislature that the department of personnel and the higher education personnel board jointly determine job classes which are substantially common to both jurisdictions and that basic salaries for these job classes shall be equal based on salary and fringe benefit survey findings.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.

Sec. 3. Section 5, chapter 152, Laws of 1977 ex. sess. as last amended by section 2, chapter 11, Laws of 1980 and RCW 41.06.167 are each amended to read as follows:

The department of personnel shall undertake comprehensive salary and fringe benefit surveys for officers of the Washington state patrol, with such surveys to be conducted ((at least)) in the year prior to the convening of ((each)) every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each ((such)) comprehensive and trend survey shall be completed and forwarded by September 30, after review and concurrence by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative budget committee and the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of weighted averages of salaries. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06-.080 as now existing or hereafter amended.

A comprehensive salary and fringe benefits survey plan shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the committee on ways and

means of the senate, the committee on appropriations of the house of representatives and to the legislative budget committee six months before the beginning of each periodic survey. The legislative budget committee shall review and evaluate the survey plan before final implementation.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.

Passed the Senate April 10, 1985.

Passed the House April 3, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 95

[Substitute Senate Bill No. 3536]

PUBLIC UTILITY DISTRICT POWER CLARIFIED REGARDING COMPREHENSIVE PLANS, ZONING, LAND USE, AND BUILDING CODES

AN ACT Relating to public utility districts; and amending RCW 54.04.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 130, Laws of 1945 and RCW 54.04.120 are each amended to read as follows:

In order that the commissioners of a public utility district may be better able to plan for the marketing of power and for the development of resources pertaining thereto, they shall have the same powers as are vested in a board of county commissioners as provided in chapter 44, Laws of 1935 (sections 9322-2 to 9322-4, both inclusive, and 9322-10 to 9322-11 inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 776-3 to -7, 776-19 and -21), entitled: "An Act relating to city, town, county and regional planning and the creation, organization, duties and powers of planning commissions." For the purposes of such act, the president of a public utility district shall have the powers of the chairman of the board of county commissioners, and a planning commission created hereunder shall have the same powers, enumerated in the above sections, with reference to a public utility district as a county planning commission has with reference to a county. However, this section shall not be construed to grant the power to

adopt, regulate, or enforce comprehensive plans, zoning, land use, or building codes.

Passed the Senate April 10, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 96

[Senate Bill No. 3624]

EMPLOYMENT SECURITY DEPARTMENT—RESTRICTIONS ON ELIGIBLE PERSONNEL CONCERNING POLITICAL ACTIVITY REMOVED

AN ACT Relating to appointments by the commissioner of the department of employment security; and amending RCW 50.12.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 41, chapter 35, Laws of 1945 as amended by section 2, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.12.020 are each amended to read as follows:

The commissioner is authorized to appoint and fix the compensation of such officers, accountants, experts, and other personnel as may be necessary to carry out the provisions of this title: PROVIDED, That such appointment shall be made on a nonpartisan merit basis in accordance with the provisions of this title relating to the selection of personnel. The commissioner may delegate to any person appointed such power and authority as ~~((he))~~ the commissioner deems reasonable and proper for the effective administration of this title, including the right to decide matters placed in ~~((his))~~ the commissioner's discretion under this title, and may in his or her discretion bond any person handling moneys or signing checks hereunder.

~~((The commissioner shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for any partisan elective public office.))~~

Passed the Senate March 8, 1985.

Passed the House April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 97

[Substitute House Bill No. 389]

BLIND PERSONS—BUSINESS ENTERPRISE PROGRAM—PUBLIC BUILDING DEFINITION CLARIFIED—INVESTMENT EARNINGS—ACCOUNT SPECIFIED

AN ACT Relating to the business enterprise program; and amending RCW 74.18.200 and 74.18.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 20, chapter 194, Laws of 1983 and RCW 74.18.200 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply in RCW 74.18.200 through 74.18.230.

(1) "Business enterprises program" means a program operated by the department under the federal Randolph-Sheppard Act, 20 U.S.C. Sec. 107 et seq., and under this chapter in support of blind persons operating vending businesses in public buildings.

(2) "Vending facility" means any stand, snack bar, cafeteria, or business at which food, tobacco, sundries, or other retail merchandise or service is sold or provided.

(3) "Vending machine" means any coin-operated machine that sells or provides food, tobacco, sundries, or other retail merchandise or service.

(4) "Licensee" means a blind person licensed by the state of Washington under the Randolph-Sheppard Act, this chapter, and the rules issued hereunder.

(5) "Public building" means any building which is: (a) Owned by the state of Washington or any political subdivision thereof ((and)) or any space leased by the state of Washington or any political subdivision thereof in any privately-owned building; and (b) dedicated to the administrative functions of the state or any political subdivision: PROVIDED, That any vending facility or vending machine under the jurisdiction and control of a local board of education shall not be included without the consent and approval of that local board.

Sec. 2. Section 23, chapter 194, Laws of 1983 and RCW 74.18.230 are each amended to read as follows:

(1) There is established in the general fund an account known as the business enterprises revolving fund.

(2) The net proceeds from any vending machine operation in a public building, other than an operation managed by a licensee, shall be made payable to the business enterprises revolving fund. Net proceeds, for purposes of this section, means the gross amount received less the costs of the operation, including a fair minimum return to the vending machine owner, which return shall not exceed a reasonable amount to be determined by the department.

(3) All moneys in the business enterprises revolving fund shall be expended only for development and expansion of locations, equipment, management services, and payments to licensees in the business enterprises program.

(4) The business enterprises program shall be supported by the business enterprises revolving fund and by income which may accrue to the department pursuant to the federal Randolph-Sheppard Act.

(5) Vocational rehabilitation funds may be spent in connection with the business enterprises program for training persons to become licensees and for other services that are required to complete an individual written rehabilitation program.

(6) All earnings of investments of balances in the business enterprises revolving account shall be credited to the business enterprises revolving account.

Passed the House March 8, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 98

[Substitute House Bill No. 403]

SEWER DISTRICT AUTHORITY EXTENDED TO GROUND WATER PROTECTION

AN ACT Relating to water and sewer districts; and amending RCW 56.08.013.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 146, Laws of 1977 ex. sess. and RCW 56.08.013 are each amended to read as follows:

Where a sewer district contains within its borders, abuts, or is located adjacent to any lake, stream, ground water as defined by RCW 90.44.035, or other waterway within the state of Washington, by resolution the board of commissioners may provide for the reduction, minimization, or elimination of pollutants from these waters in accordance with the district's comprehensive plan as provided in RCW 56.08.020, and may authorize the issuance of general obligation bonds within the limits prescribed by RCW 56.16.010, revenue bonds, local improvement district bonds, or utility local improvement bonds for the purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters.

Passed the House March 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 99

[Substitute House Bill No. 602]

REAL PROPERTY PLATS—COMPLIANCE WITH DEPARTMENT OF NATURAL RESOURCES SURVEY STANDARDS REQUIRED

AN ACT Relating to surveys in divisions of land; and amending RCW 58.17.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 16, chapter 271, Laws of 1969 ex. sess. and RCW 58-17.160 are each amended to read as follows:

Each and every plat, or replat, of any property filed for record shall:

(1) Contain a statement of approval from the city, town or county licensed road engineer or by a licensed engineer acting on behalf of the city, town or county as to ~~((the survey data,))~~ the layout of streets, alleys and other rights of way, design of bridges, sewage and water systems, and other structures;

(2) Be accompanied by a complete survey of the section or sections in which the plat or replat is located ~~((, or as much thereof as may be necessary to properly orient the plat within such section or sections. The plat and section survey shall be submitted with complete field and computation notes showing the original or reestablished corners with descriptions of the same and the actual traverse showing error of closure and method of balancing. A sketch showing all distances, angles and calculations required to determine corners and distances of the plat shall accompany this data. The allowable error of closure shall not exceed one foot in five thousand feet))~~ made to surveying standards adopted by the division of engineering services of the department of natural resources pursuant to RCW 58.24.040.

(3) Be acknowledged by the person filing the plat before the auditor of the county in which the land is located, or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.

(4) Contain a certification from the proper officer or officers in charge of tax collections that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

No engineer who is connected in any way with the subdividing and platting of the land for which subdivision approval is sought, shall examine and approve such plats on behalf of any city, town or county.

Passed the House March 14, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 100

[Engrossed Substitute House Bill No. 50]

REIMBURSEMENT OF INTERIM ASSISTANCE, ATTORNEYS' FEES— RETROACTIVE APPLICATION

AN ACT Relating to supplemental security income applicants' attorneys' fees; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Section 37, chapter 41, Laws of 1983 1st ex. sess. shall be applied retroactively by the department of social and health services to all reimbursement of interim assistance received on or after August 23, 1983, so long as the attorney of the applicant for whom reimbursement is received began representing the applicant on or after August 23, 1983.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 4, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 101

[Substitute House Bill No. 163]

DRIVERS' LICENSES—CERTAIN ALCOHOLICS, DRUG ADDICTS, ALCOHOL OR DRUG ABUSERS INELIGIBLE FOR LICENSE

AN ACT Relating to drivers' licensure; and amending RCW 46.20.031 and 46.65.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 121, Laws of 1965 ex. sess. as amended by section 1, chapter 162, Laws of 1977 ex. sess. and RCW 46.20.031 are each amended to read as follows:

The department shall not issue a driver's license hereunder:

- (1) To any person who is under the age of sixteen years;
- (2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;
- (3) To any person when the department has been notified by a court that such person has violated his written promise to appear in court, unless the department has received a certificate from the court in which such person promised to appear, showing that the case has been adjudicated. The deposit of bail by a person charged with a violation of any law regulating the operation of motor vehicles on highways shall be deemed an appearance in court for the purpose of this section;
- (4) To any person who ~~((a) is an habitual user of narcotic drugs, or is an habitual user of any other drug to a degree which renders him incapable of safely driving a motor vehicle, or (b) habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic~~

~~function is disrupted so as to constitute a danger to other persons or property))~~ has been evaluated by a program approved by the department of social and health services as being an alcoholic, drug addict, alcohol abuser and/or drug abuser: PROVIDED, That a license may be issued if the department determines that such person ((is)) has been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or is satisfactorily participating in or has successfully completed an ((alcoholism recovery)) alcohol or drug abuse treatment program ((acceptable to)) approved by the department of social and health services and has established control of his ((alcoholic condition)) or her alcohol and/or drug abuse problem;

(5) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: PROVIDED, HOWEVER, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

(6) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(7) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(8) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction.

Sec. 2. Section 8, chapter 284, Laws of 1971 ex. sess. as last amended by section 2, chapter 188, Laws of 1981 and RCW 46.65.060 are each amended to read as follows:

If the department finds that such person is not an habitual offender under this chapter, the proceeding shall be dismissed, but if the department finds that such person is an habitual offender, the department shall revoke the operator's license for a period of five years: PROVIDED, That the department may stay the date of the revocation if it finds that the traffic offenses upon which it is based were caused by or are the result of ~~((the alcoholism of the person, as defined in RCW 70.96A.020, as now or hereafter amended))~~ alcoholism and/or drug addiction as evaluated by a program approved by the department of social and health services, and that since his or her last offense he or she has undertaken and followed a course of treatment for alcoholism ((om)) and/or drug treatment in a program approved by the department of social and health services; such stay shall be subject to terms and conditions as are deemed reasonable by the department. Said stay shall continue as long as there is no further conviction for any of the offenses listed in RCW 46.65.020(1). Upon a subsequent conviction for any offense listed in RCW 46.65.020(1) or violation of any of the

terms or conditions of the original stay order, the stay shall be removed and the department shall revoke the operator's license for a period of five years.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 102

[Substitute House Bill No. 444]

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM—INJURIES OR SICKNESS INCURRED IN THE LINE OF DUTY

AN ACT Relating to the law enforcement officers' and fire fighters' retirement system; amending RCW 41.26.120, 41.26.270, 41.26.005, and 41.50.090; adding a new section to chapter 41.26 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. As expressed in RCW 41.26.270, the intent of the legislature in enacting the law enforcement officers' and fire fighters' retirement system was to provide in RCW 41.26.120 a statute in the nature of a workers' compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. The sole purpose of this 1985 act is to clarify that intent.

Sec. 2. Section 12, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 294, Laws of 1981 and RCW 41.26.120 are each amended to read as follows:

Any member, regardless of his age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his discontinuance of service and which renders him unable to continue his service(~~(; whether incurred in the line of duty or not)~~). No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to his full monthly salary and shall continue to receive all other benefits provided to active employees from his employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, his disability leave allowance shall be canceled and he shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time he became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his behalf, stating that said member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless said member or someone in his behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a duty disability retirement allowance, the disability board shall make a finding ~~((of whether or not))~~ that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding ~~((of whether))~~ that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish, to the disability board, that he is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) above.

NEW SECTION. Sec. 3. A new section is added to chapter 41.26 RCW to read as follows:

Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is, or is believed to be, physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless the member or someone acting in the member's behalf, in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in the line of duty. The director

may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a non-duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section.

Sec. 4. Section 14, chapter 257, Laws of 1971 ex. sess. and RCW 41.26.270 are each amended to read as follows:

The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workmen to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as workmen's compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from workmen's compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter.

Sec. 5. Section 18, chapter 294, Laws of 1977 ex. sess. as amended by section 1, chapter 249, Laws of 1979 ex. sess. and RCW 41.26.005 are each amended to read as follows:

The provisions of the following sections of this chapter shall apply only to persons who establish membership in the retirement system on or before September 30, 1977: RCW 41.26.080, 41.26.090, 41.26.100, 41.26.110, 41.26.120, section 3 of this 1985 act, 41.26.130, 41.26.140, 41.26.150, 41.26.160, 41.26.170, 41.26.190, 41.26.200, 41.26.240, 41.26.250, 41.26.260, and 41.26.270.

Sec. 6. Section 11, chapter 105, Laws of 1975-'76 2nd ex. sess. as last amended by section 97, chapter 3, Laws of 1983 and RCW 41.50.090 are each amended to read as follows:

(1) Except as otherwise provided in this section, on the effective date of transfer as provided in RCW 41.50.030, the department shall succeed to and is vested with all powers, duties, and functions now or by any concurrent act of this 1976 legislature vested in the individual retirement boards set forth in RCW 41.50.030 relating to the administration of their various retirement systems, including but not limited to the power to appoint a staff and define the duties thereof: PROVIDED, That actuarial services required by the department shall be performed by the state actuary as provided in RCW 44.44.040.

(2) The department shall keep each retirement board fully informed on the administration of the corresponding retirement system, and shall furnish any information requested by a retirement board.

(3) Rules proposed by the director under RCW 2.10.070, 41.26.060, 41.32.160, or 41.40.020(~~(, or 43.43.140)~~) shall be submitted to the appropriate retirement boards for review prior to adoption. After receiving approval of the members of the appropriate board, such rules shall become effective as provided by the administrative procedure act, chapter 34.04 RCW.

(4) Each retirement board shall continue to perform all functions as are vested in it by law with respect to applications for benefits paid upon either temporary or permanent disability, with such staff assistance from the department as may be required. The director shall perform those functions with respect to disability benefits as are vested in him or her by RCW 41.26.120, section 3 of this 1985 act, and 41.26.200.

NEW SECTION. Sec. 7. The provisions of this 1985 act apply retrospectively to all disability leave and disability retirement allowances granted under chapter 41.26 RCW on or after March 1, 1970.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House March 14, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 103

[House Bill No. 657]

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM—DISABILITY BOARD DETERMINATIONS

AN ACT Relating to the law enforcement officers' and fire fighters' retirement system; amending RCW 41.26.140; and adding a new section to chapter 41.26 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 41.26 RCW to read as follows:

(1) A disabled member who believes that his or her disability has ceased in accordance with RCW 41.26.130(3) may make application to the disability board which originally found the member to be disabled, for a determination that the disability has ceased.

(2) Every order of a disability board determining that a member's disability has ceased pursuant to RCW 41.26.130(3) shall forthwith be reviewed by the director. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(3) Determinations of whether a disability has ceased under RCW 41.26.130(3) and this section shall be made in accordance with the same procedures and standards governing other cancellations of disability retirement.

Sec. 2. Section 14, chapter 209, Laws of 1969 ex. sess. as last amended by section 4, chapter 294, Laws of 1981 and RCW 41.26.140 are each amended to read as follows:

(1) Upon the basis of reexaminations of members on disability retirement as provided in RCW 41.26.130, the disability board shall determine

whether such disability beneficiary is still unable to perform his duties either physically or mentally for service in the department where he was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated his retirement allowance shall be canceled and he shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his retirement or if unable to perform the duties of said rank, then, at his request, in such other like or lesser rank as may be or become open and available, the duties of which he is then able to perform. In no event, shall a beneficiary previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the said beneficiary at the date of his retirement for disability. If the disability board determines that the beneficiary is able to return to service he shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.04 RCW, as now or hereafter amended.

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system.

(4) Should any disability beneficiary under age fifty refuse to submit to examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year or more, his retirement allowance shall be canceled.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he shall be paid the excess, if any, of his accumulated contributions at the time of his retirement over all payments made on his behalf under this chapter.

(6) Any person feeling aggrieved by an order of a disability board determining that a beneficiary's disability has not ceased, pursuant to RCW 41.26.130(3) has the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for further proceedings if the director finds that the disability board's findings, inferences, conclusions, or decisions are:

(a) In violation of constitutional provisions; or

(b) In excess of the statutory authority or jurisdiction of the disability board; or

(c) Made upon unlawful procedure; or

(d) Affected by other error of law; or

(e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or

(f) Arbitrary or capricious.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 104

[House Bill No. 183]

MEALS PROVIDED TO SENIOR CITIZENS, DISABLED PERSONS, OR LOW-INCOME PERSONS—SALES TAX EXEMPTION

AN ACT Relating to excise taxes; amending RCW 82.08.0293 and 82.12.0293; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 33, chapter 35, Laws of 1982 1st ex. sess. and RCW 82.08.0293 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others,

except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older ~~((American[s])~~) Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

Sec. 2. Section 34, chapter 35, Laws of 1982 1st ex. sess. and RCW 82.12.0293 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for

consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older ~~((American[s])~~) Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 18, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 105

[Engrossed Substitute House Bill No. 253]

ANNEXATION OF UNINCORPORATED FEDERAL AREAS CONTIGUOUS TO A CODE CITY

AN ACT Relating to annexation by code cities; and amending RCW 35A.14.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35A.14.310, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.310 are each amended to read as follows:

~~((Any unincorporated area contiguous to))~~ A code city may ((be annexed thereto by)) annex an unincorporated area contiguous to the city that is owned by the federal government by adopting an ordinance ((accepting)) providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this right of annexation shall not apply to any territory more than four miles from the

corporate limits existing before such annexation. Whenever a code city proposes to annex territory under this section, the city shall provide written notice of the proposed annexation to the legislative authority of the county within which such territory is located. The notice shall be provided at least thirty days before the city proposes to adopt the annexation ordinance. The city shall not adopt the annexation ordinance, and the annexation shall not occur under this section, if within twenty-five days of receipt of the notice, the county legislative authority adopts a resolution opposing the annexation, which resolution makes a finding that the proposed annexation will have an adverse fiscal impact on the county or road-district.

Passed the House March 21, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 106

[House Bill No. 27]

COUNCILMANIC OFFICES—REDUCTION IN NUMBER OF OFFICES IN CERTAIN CODE CITIES

AN ACT Relating to code cities; and amending RCW 35A.12.010 and 35A.13.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35A.12.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 1, chapter 128, Laws of 1983 and RCW 35A.12.010 are each amended to read as follows:

The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a mayor-council code city, its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a mayor-council code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two

persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmen not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the mayor-council plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

Sec. 2. Section 35A.13.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 2, chapter 128, Laws of 1983 and RCW 35A.13.010 are each amended to read as follows:

The councilmen shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective police judge. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a non-charter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a council-manager code city its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a council-manager code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two

persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmen not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the council-manager plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

Passed the House February 8, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 107

[House Bill No. 670]

SALMON TROLL LICENSES

AN ACT Relating to commercial salmon fishing licenses; and amending RCW 75.28.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.28.110, chapter 12, Laws of 1955 as last amended by section 113, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.110 are each amended to read as follows:

(1) The following commercial salmon fishing licenses are required for the licensee to use the specified gear to fish for salmon and other food fish in state waters. The annual license fees are:

Gear	Resident Fee	Nonresident Fee
(a) Purse seine	\$300	\$600
(b) Gill net	\$200	\$400
(c) Troll	\$200	\$400
(d) Reef net	\$200	\$400

(2) Holders of commercial salmon fishing licenses may retain incidentally caught food fish other than salmon, subject to rules of the director.

(3) A salmon troll license allows fishing in all licensing districts and includes a salmon delivery permit.

(4) A separate gill net license is required to fish for salmon in each of the licensing districts established in RCW 75.28.012.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 108

[Engrossed Substitute House Bill No. 746]

CHILD SUPPORT ORDERS—MODIFICATION OF HEALTH INSURANCE COVERAGE REQUIREMENT

AN ACT Relating to child support; and amending RCW 26.09.105.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 201, Laws of 1984 and RCW 26.09.105 are each amended to read as follows:

In entering or modifying a support order under this chapter, the court shall require (~~(a parent owing an obligation of child support)~~) either or both parents to maintain or provide health insurance coverage for any dependent child if (~~(aff of)~~) the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to (~~(the obligor)~~) that parent through an employer or other organization; and

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child(~~(, and~~

~~(3) The custodial parent does not have health insurance available through an employer or other organization at no or reduced cost that covers the child)).~~

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

This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and

not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

Passed the House March 13, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 109

[House Bill No. 399]

STAGGERED LICENSING PERIODS AUTHORIZED FOR MOTOR VEHICLE-RELATED BUSINESSES

AN ACT Relating to motor vehicle business licenses; amending RCW 46.70.083, 46.76-.050, 46.79.050, and 46.80.050; adding a new section to chapter 46.70 RCW; adding a new section to chapter 46.76 RCW; adding a new section to chapter 46.79 RCW; and adding a new section to chapter 46.80 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 74, Laws of 1967 ex. sess. as last amended by section 12, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.083 are each amended to read as follows:

The license of a vehicle dealer or a vehicle manufacturer (~~((shall be effective until December 31))~~) expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.

Registration of a vehicle salesman (~~((shall be effective until June 30))~~) expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.

NEW SECTION. Sec. 2. A new section is added to chapter 46.70 RCW to read as follows:

Notwithstanding any provision of law to the contrary, the director may extend or diminish licensing periods of dealers, manufacturers, and salespersons for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.04 RCW.

Sec. 3. Section 46.76.050, chapter 12, Laws of 1961 and RCW 46.76-.050 are each amended to read as follows:

A transporter's license (~~((shall))~~) expires on ((December 31st of each year)) the date assigned by the director, and may be renewed by filing a proper application and paying an annual fee of fifteen dollars.

NEW SECTION. Sec. 4. A new section is added to chapter 46.76 RCW to read as follows:

Notwithstanding any provision of law to the contrary, the director may extend or diminish the licensing period of transporters for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.04 RCW.

Sec. 5. Section 5, chapter 110, Laws of 1971 ex. sess. as amended by section 4, chapter 142, Laws of 1983 and RCW 46.79.050 are each amended to read as follows:

A license issued pursuant to this chapter expires on (~~June 30th of each year~~) the date assigned by the director, and may be renewed by filing a proper application and payment of a fee of ten dollars.

Whenever a hulk hauler or scrap processor ceases to do business or the license has been suspended or revoked, the license shall immediately be surrendered to the director.

NEW SECTION. Sec. 6. A new section is added to chapter 46.79 RCW to read as follows:

Notwithstanding any provision of law to the contrary, the director may extend or diminish the licensing period of hulk haulers and scrap processors for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.04 RCW.

Sec. 7. Section 46.80.050, chapter 12, Laws of 1961 as last amended by section 4, chapter 7, Laws of 1971 ex. sess. and RCW 46.80.050 are each amended to read as follows:

A license issued on this application shall remain in force until suspended or revoked and may be renewed annually upon reapplication according to RCW 46.80.030 and upon payment of a fee of ten dollars. Any motor vehicle wrecker who fails or neglects to renew his license (~~prior to July 1,~~) before the assigned expiration date shall be required to pay the fee for an original motor vehicle wrecker license as provided in this chapter.

Whenever a motor vehicle wrecker (~~shall~~) ceases to do business as such or his license has been suspended or revoked, he shall immediately surrender such license to the department.

NEW SECTION. Sec. 8. A new section is added to chapter 46.80 RCW to read as follows:

Notwithstanding any provision of law to the contrary, the director may extend or diminish the licensing period of motor vehicle wreckers for the purpose of staggering renewal periods. The extension or diminishment shall

be by rule of the department adopted in accordance with chapter 34.04 RCW.

Passed the House March 1, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 110

[Substitute House Bill No. 53]

STATE CENTER AND COUNCIL FOR VOLUNTARY ACTION REAUTHORIZED

AN ACT Relating to the center for voluntary action; amending RCW 43.150.060 and 43.131.190; repealing RCW 43.150.010, 43.150.020, 43.150.030, 43.150.040, 43.150.050, 43.150.060, 43.150.070, and 43.150.080; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 6, chapter 11, Laws of 1982 1st ex. sess. and RCW 43.150.060 are each amended to read as follows:

(1) There is created the Washington state council on voluntary action to assist the governor and the center in the accomplishment of its mission.

(2) Giving due consideration to geographic representation, the governor shall appoint the members of the council as provided in this section.

(3) The governor shall appoint a chair for the council.

(4) The advisory council shall have an odd number of members, including its chair, appointed or reappointed for three-year terms, with a total membership of no less than fifteen and no more than twenty-one.

~~(5) ((Upon initial appointment, one-third of the members of the advisory council shall be appointed for one-year terms, one-third for two-year terms, and one-third for three-year terms. Thereafter, as vacancies shall occur, appointments shall be for the unexpired portion of the term.~~

(6)) Members of the council shall upon request be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

~~((7))~~ (6) The council and its members shall:

(a) Advise the governor as he may request and direct;

(b) Propose, review, and evaluate activities and programs of the center and, to the degree practical, advocate decentralization of the center's activities, facilitate but not require or hinder existing local volunteer services, and not advocate the replacement of needed paid staff with volunteers;

(c) Represent the governor and the center on such occasions and in such manner as the governor may from time to time provide; and

(d) Deliver to the governor and the legislature on the 15th of December ~~((, 1982, and))~~ of each year ~~((thereafter))~~ a report outlining the scope and nature of volunteer activities in the state, assessing the need and potential for volunteer activities in the state, identifying and recognizing

significant accomplishments and services of individual volunteers and volunteer programs, and making such recommendations as the council determines by majority vote.

Sec. 2. Section 63, chapter 99, Laws of 1979 as amended by section 20, chapter 125, Laws of 1984 and RCW 43.131.190 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1990:

(1) Section 2, chapter 74, Laws of 1967, section 2, chapter 125, Laws of 1984 and RCW 43.63A.020;

(2) Section 3, chapter 74, Laws of 1967, section 1, chapter 125, Laws of 1984 and RCW 43.63A.030;

(3) Section 4, chapter 74, Laws of 1967, section 10, chapter 40, Laws of 1975, section 3, chapter 125, Laws of 1984 and RCW 43.63A.040;

(4) Section 5, chapter 74, Laws of 1967 and RCW 43.63A.050;

(5) Section 6, chapter 74, Laws of 1967, section 4, chapter 125, Laws of 1984 and RCW 43.63A.060;

(6) Section 5, chapter 125, Laws of 1984 and RCW 43.63A.065;

(7) Section 9, chapter 74, Laws of 1967 and RCW 43.63A.090;

(8) Section 10, chapter 74, Laws of 1967, section 9, chapter 125, Laws of 1984 and RCW 43.63A.100;

(9) Section 10, chapter 125, Laws of 1984 and RCW 43.63A.105;

(10) Section 13, chapter 74, Laws of 1967 and RCW 43.63A.130;

(11) Section 14, chapter 74, Laws of 1967 and RCW 43.63A.140;

(12) Section 2, chapter 269, Laws of 1984, section 11, chapter 125, Laws of 1984 and RCW 43.63A.190; ~~((and))~~

(13) Section 16, chapter 74, Laws of 1967 and RCW 43.63A.900;

(14) Section 1, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.010;

(15) Section 2, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.020;

(16) Section 3, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.030;

(17) Section 4, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.040;

(18) Section 5, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.050;

(19) Section 6, chapter 11, Laws of 1982 1st ex. sess., section 1 of this 1985 act and RCW 43.150.060; and

(20) Section 7, chapter 11, Laws of 1982 1st ex. sess. and RCW 43-150.070.

NEW SECTION. Sec. 3. Section 8, chapter 11, Laws of 1982 1st ex. sess. and RCW 43.150.080 are each repealed.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 111

[Engrossed House Bill No. 434]

UNIVERSITY OF WASHINGTON DENTAL FACULTY—LICENSE TO PRACTICE DENTISTRY WHILE TEACHING AUTHORIZED

AN ACT Relating to licensing of dental faculty; and adding a new section to chapter 18.32 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.32 RCW to read as follows:

The board may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The board may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as full-time faculty members. For purposes of this section, this means teaching members of the faculty of the school of dentistry of the University of Washington who are so employed on a one hundred percent of work time basis. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a full-time faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be such a full-time faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The board may condition the granting of such license with terms the board deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the dental disciplinary board to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the dental disciplinary board after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the dental disciplinary

board that such licensee has violated any of the restrictions set forth in this section.

(3) Persons applying for licensure pursuant to this section shall pay the application fee determined by the director and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the board of dental examiners, licenses issued under this section may be renewed annually if the licensee continues to be employed as a full-time faculty member of the school of dentistry of the University of Washington and otherwise meets the requirements of the provisions and conditions deemed appropriate by the board of dental examiners. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

Passed the House March 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 112

[Engrossed Substitute House Bill No. 189]

FIRE PROTECTION DISTRICTS—PROPERTY TAX LEVY MODIFICATIONS

AN ACT Relating to property tax levies by fire protection districts; and amending RCW 52.16.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9, chapter 53, Laws of 1961 as last amended by section 128, chapter 167, Laws of 1983 and RCW 52.16.160 are each amended to read as follows:

Notwithstanding the limitation of dollar rates contained in RCW 52.16.130, and in addition to any levy for the payment of the principal and interest of any outstanding general obligation bonds and in addition to any levy authorized by RCW 52.16.130, 52.16.140 or any other statute, if in any county where a township has never been formed or where there are one or more townships in existence making annual tax levies and such township or townships are disorganized as a result of a county-wide disorganization procedure prescribed by statute and is no longer making any tax levy, or any township or townships for any other reason no longer makes any tax levy, the board of fire commissioners of any fire protection district within such county, which fire protection district has at least one full time, paid employee, is hereby authorized to levy each year an ad valorem tax on all taxable property within such district of not to exceed fifty cents per thousand dollars of assessed value, which levy may be made only if it will not

affect dollar rates which other taxing districts may lawfully claim nor cause the combined levies to exceed the constitutional and/or statutory limitations.

Passed the House March 8, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 113

[Substitute House Bill No. 731]

WASHINGTON-BRED HORSES—DEPARTMENT OF AGRICULTURE— MARKETING PLAN

AN ACT Relating to horse breeding and marketing; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The department of agriculture, through its division on agricultural development, shall examine the various means by which the state may promote and assist in the marketing of Washington-bred horses. For each of those means that have the greatest potential for assisting such marketing, the department shall design a marketing plan, project the effectiveness of the plan, and estimate the cost of implementing the plan. As it identifies such means and designs the various plans, the department shall consult with the committees on agriculture of the state house of representatives and senate. The department shall report its findings, in the form of alternative plans and estimates of the costs and effectiveness of the plans as well as any legislation needed to implement such plans, to the legislature by December 1, 1985.

Passed the House March 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 114

[Substitute House Bill No. 220]

PRODUCTIVITY BOARD—EMPLOYEE INCENTIVES MODIFIED

AN ACT Relating to employee incentives; amending RCW 41.60.015, 41.60.041, 41.60.050, 41.60.100, 41.60.110, and 41.60.120; adding a new section to chapter 41.60 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 167, Laws of 1982 as last amended by section 72, chapter 287, Laws of 1984 and RCW 41.60.015 are each amended to read as follows:

(1) There is hereby created the productivity board. The board shall administer the employee suggestion program under this chapter and shall review applications for incentive pay for state employees under RCW 41.60.100, 41.60.110, and 41.60.120.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;

(c) The director of financial management or the director's designee;
((and))

(d) The personnel director appointed under the provisions of RCW 28B.16.060 or the director's designee; and

(e) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees, but no one organization may be represented for two consecutive terms.

~~((Initially, the person appointed by the governor shall serve a one-year term, the person appointed by the lieutenant governor shall serve a two-year term, and the person appointed by the speaker shall serve a three-year term. Thereafter,))~~ These members shall serve three-year terms.

Members of the board shall be compensated in accordance with RCW 43.03.240.

Sec. 2. Section 9, chapter 167, Laws of 1982 and RCW 41.60.041 are each amended to read as follows:

(1) Cash awards for suggestions generating net savings to the state shall be ~~((calculated on a sliding scale percentage basis in the following manner:~~

~~(a) Ten percent of the first ten thousand dollars;~~

~~(b) Eight percent of the next twenty thousand dollars;~~

~~(c) Six percent of the next thirty thousand dollars;~~

~~(d) Four percent of the next forty thousand dollars; and~~

~~(e) Two percent of all amounts in excess of one hundred thousand dollars))~~ ten percent of the net savings.

(2) No award may be granted in excess of ten thousand dollars.

(3) If the suggestion is significantly modified when implemented, the percentage((s)) specified in subsection (1) of this section may be decreased at the option of the board.

(4) The board shall establish guidelines for making cash awards for suggestions for which benefits to the state are intangible or for which benefits cannot be calculated.

(5) Funds for the awards shall be drawn from the appropriation of the agency benefiting from the employee's suggestion. In addition to the amount awarded, the agency shall transfer ~~((two))~~ ten percent of the savings to the department of personnel for deposit in the department of personnel service fund. Moneys so transferred shall be used exclusively for the operations of the productivity board. Any moneys remaining unexpended at the end of the fiscal biennium shall revert to the original fund source.

Sec. 3. Section 5, chapter 142, Laws of 1965 ex. sess. as last amended by section 3, chapter 54, Laws of 1983 and RCW 41.60.050 are each amended to read as follows:

~~((Until June 30, 1985, administrative expenses of the board in administering this chapter shall not exceed fifty thousand dollars per year. After June 30, 1985, such expenses shall not exceed))~~ The legislature may augment the revenue transferred to the department of personnel service fund under RCW 41.60.041(5) and 41.60.120((-Administrative expenses shall be paid from the department of personnel service fund)) with an appropriation. Such appropriation shall be used exclusively for the payment of administrative costs of the productivity board.

Sec. 4. Section 2, chapter 167, Laws of 1982 and RCW 41.60.100 are each amended to read as follows:

With the exception of the legislative and judicial branches ~~((and the offices of elected officials))~~, any organizational unit of any agency of state government having an identifiable budget or having its financial records maintained according to an accounting system which identifies the expenditures and receipts properly attributable to that unit may apply to the board for selection as a candidate for the award of incentive pay to its employees. The application shall be submitted prior to the beginning of any year and shall have the approval of the head of the agency within which the unit is located.

Applications shall be in the form specified by the board and contain such information as the board may require, including but not limited to those evaluation components developed by the applying unit which will provide quantitative measures of program output and performance.

The board shall evaluate the applications submitted. From those proposals which are considered to be reasonable and practical and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the board shall select the units to participate in the incentive pay program.

Persons who are exempt from civil service under RCW 41.06.070 (5) and (9) may not participate in the employee incentive pay program.

Sec. 5. Section 3, chapter 167, Laws of 1982 and RCW 41.60.110 are each amended to read as follows:

(1) To qualify for the award of incentive pay to its employees, a unit selected shall demonstrate to the satisfaction of the board that it has operated during the year of participation at ((less)) a lower cost ((than the immediately preceding year either)) with either an increase in the level of services rendered or with no decrease in the level of services rendered.

(a) A unit completing its first year of participation shall compare costs during that year of participation to (i) the fiscal year expenditures for the year immediately preceding the first year of participation, or (ii) an average derived from the unit's historical data, or (iii) engineered standards used in conjunction with an average derived from the unit's historical data;

(b) A unit participating in the incentive pay program for more than one year shall compare its costs during the current year of participation with its costs for the immediately preceding year; and

(c) For the purposes of this section, a unit's historical data shall be restricted to data generated during the period of three years or less immediately preceding the unit's first year of participation in the incentive pay program.

(2) The board shall satisfy itself from documentation submitted by the organizational unit that the claimed cost of operation is real and not merely apparent and that it is not, in whole or in part, the result of:

- (a) Chance;
- (b) A lowering of the quality of the service rendered;
- (c) Nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding year;
- (d) Stockpiling inventories in the immediately preceding year so as to reduce requirements in the eligible year;
- (e) Substitution of federal funds, other receipts, or nonstate funds for state appropriations;
- (f) Unreasonable postponement of payments of accounts payable until the year immediately following the eligible year;
- (g) Shifting of expenses to another unit of government; or
- (h) Any other practice, event, or device which the board decides has caused a distortion which makes it falsely appear that a savings or increase in level of services has occurred.

(3) The board shall consider as legitimate savings those reductions in expenditures made possible by such items as the following:

- (a) Reductions in overtime;
- (b) Elimination of consultant fees;
- (c) Less temporary help;
- (d) Improved systems and procedures;
- (e) Better deployment and utilization of personnel;
- (f) Elimination of unnecessary travel;
- (g) Elimination of unnecessary printing and mailing;
- (h) Elimination of unnecessary payments for items such as advertising;

- (i) Elimination of waste, duplication, and operations of doubtful value;
- (j) Improved space utilization; and
- (k) Any other items considered by the board as representing true savings.

Sec. 6. Section 4, chapter 167, Laws of 1982 and RCW 41.60.120 are each amended to read as follows:

At the conclusion of the eligible year, the board shall compare the expenditures for that year of each unit selected against the expenditures of that unit for the immediately preceding year or expenditures determined in accordance with RCW 41.60.110(1) (a) and (b) and, after making such adjustments as in the board's judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced the unit's cost of operations or increased its level of services in the eligible year. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services, materials, and supplies. If the board also determines that in the board's judgment a unit qualifies for an award, the board shall award to the employees of that unit a sum equal to twenty-five percent of the amount determined to be the savings to the state for the level of services rendered. The amount awarded shall be divided and distributed in equal shares to the employees of the unit, except that employees who worked for that unit less than the twelve months of the year shall receive only a pro rata share based on the fraction of the year worked for that unit. Funds for this incentive pay shall be drawn from the ~~((appropriation of the))~~ agency in which the unit is located.

In addition to the amount awarded, the agency shall transfer ~~((two))~~ ten percent of the savings to the department of personnel for deposit in the department of personnel service fund. Moneys so transferred shall be used exclusively for the operations of the productivity board. Any moneys remaining unexpended at the end of the fiscal biennium shall revert to the original fund source.

NEW SECTION. Sec. 7. A new section is added to chapter 41.60 RCW to read as follows:

Other than suggestion awards and incentive pay unit awards, agencies shall have the authority to recognize employees for accomplishments including outstanding achievements, safety performance, and longevity. Recognition awards which may not exceed fifty dollars in value per award may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1985.

Passed the House March 14, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 115

[Substitute House Bill No. 596]

AIRCRAFT NOISE ABATEMENT—TRANSACTION ASSISTANCE

AN ACT Relating to aircraft noise abatement; and amending RCW 53.54.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 121, Laws of 1974 ex. sess. and RCW 53-.54.030 are each amended to read as follows:

For the purposes of this chapter, in developing a remedial program, the port commission may utilize one or more of the following programs:

(1) Acquisition of property or property rights within the impacted area, which shall be deemed necessary to accomplish a port purpose. The port district may purchase such property or property rights by time payment notwithstanding the time limitations provided for in RCW 53.08.010. The port district may mortgage or otherwise pledge any such properties acquired to secure such transactions. The port district may assume any outstanding mortgages.

(2) Transaction assistance programs, including assistance with real estate fees and mortgage assistance, and other neighborhood remedial programs as compensation for impacts due to aircraft noise and noise associated conditions. Any such programs shall be in connection with properties located within an impacted area and shall be provided upon terms and conditions as the port district shall determine appropriate.

(3) Programs of soundproofing structures located within an impacted area. Such programs may be executed without regard to the ownership, provided the owner waives all damages and conveys a full and unrestricted easement for the operation of all aircraft, and for all noise and noise associated conditions therewith, to the port district.

((3)) (4) Mortgage insurance of private owners of lands or improvements within such noise impacted area where such private owners are unable to obtain mortgage insurance solely because of noise impact. In this regard, the port district may establish reasonable regulations and may impose reasonable conditions and charges upon the granting of such mortgage insurance: PROVIDED, That such fees and charges shall at no time exceed fees established for federal mortgage insurance programs for like service.

(5) An individual property may be provided benefits by the port district under each of the programs described in subsections (1) through (4) of this section. However, an individual property may not be provided benefits under any one of these programs more than once.

~~((4))~~ (6) Management of all lands, easements, or development rights acquired, including but not limited to the following:

- (a) Rental of any or all lands or structures acquired;
- (b) Redevelopment of any such lands for any economic use consistent with airport operations, local zoning and the state environmental policy;
- (c) Sale of such properties for cash or for time payment and subjection of such property to mortgage or other security transaction: PROVIDED, That any such sale shall reserve to the port district by covenant an unconditional right of easement for the operation of all aircraft and for all noise or noise conditions associated therewith.

~~((5))~~ (7) A property shall be considered within the impacted area if any part thereof is within the impacted area.

Passed the House March 14, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 116

[Substitute House Bill No. 481]

BUSINESSES AND PROFESSIONS LICENSING—DEPARTMENT OF LICENSING MAY TEMPORARILY INCREASE BOARDS OR COMMITTEES FOR EXAMINATION PROCESSING

AN ACT Relating to the department of licensing; and adding a new section to chapter 43.24 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.24 RCW to read as follows:

The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the

board or committee. This authority is intended to provide for more efficient, economical, and effective examinations.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 117

[Substitute House Bill No. 482]

HEALTH CARE ASSISTANTS—FEES TO COVER ADMINISTRATIVE COSTS OF OBTAINING CERTIFICATION

AN ACT Relating to health care assistants; reenacting and amending RCW 18.120.020; adding a new section to chapter 18.135 RCW; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.135 RCW to read as follows:

The health care facility or health care practitioner registering an initial or continuing certification pursuant to the provisions of this chapter shall pay a fee determined by the director as provided in RCW 43.24.086.

All fees collected under this section shall be credited to the health professions account as required in RCW 43.24.072.

NEW SECTION. Sec. 2. The sum of thirty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the health professions account to the department of licensing for certification of health care assistants.

Sec. 3. Section 2, chapter 168, Laws of 1983 as amended by section 18, chapter 9, Laws of 1984 and by section 57, chapter 279, Laws of 1984 and RCW 18.120.020 are each reenacted and amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession

prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; drugless healing under chapter 18.36 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; and massage practitioners under chapter 18.108 RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License", "licensing", and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 118

[House Bill No. 175]

CAREER EXECUTIVE PROGRAM REAUTHORIZED

AN ACT Relating to the career executive program; adding new sections to chapter 43.131 RCW; repealing RCW 41.06.430 and 41.06.440; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.131 RCW to read as follows:

The career executive program under RCW 41.06.430 shall terminate on June 30, 1989, as provided in section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 43.131 RCW to read as follows:

Section 7, chapter 118, Laws of 1980 and RCW 41.06.430, as now or hereafter amended, are each repealed effective June 30, 1990.

NEW SECTION. Sec. 3. Section 8, chapter 118, Laws of 1980 and RCW 41.06.440 are each repealed.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the House February 11, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 119

[House Bill No. 34]

HOT WATER HEATER THERMOSTAT SETBACK IN MULTI-UNIT RESIDENCES

AN ACT Relating to water heaters in multiple-unit residences; and amending RCW 19.27.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 178, Laws of 1983 and RCW 19.27.130 are each amended to read as follows:

(1) "Hot water heater" means the primary source of hot water for a residence.

(2) The thermostat of a new water heater offered for sale or lease in this state for use in a residential unit, shall be preset by the manufacturer no higher than one hundred twenty degrees Fahrenheit (or forty-nine degrees Celsius) or the minimum setting on any water heater which cannot be set as low as that temperature. Water heating systems may utilize higher reservoir temperature if mixing valves are set or systems are designed to restrict the temperature of water to one hundred twenty degrees Fahrenheit.

(3) Upon occupancy of a new tenant in a residential unit leased or rented in this state, if hot water is supplied from an accessible, individual water heater, the water heater shall be set by the owner or agent at a temperature not higher than one hundred twenty degrees Fahrenheit (forty-nine degrees Celsius) or the minimum setting on any water heater which cannot be set as low as that temperature. Water heating systems may utilize higher reservoir temperature if mixing valves are set or systems are designed to restrict the temperature of water to one hundred twenty degrees Fahrenheit.

(4) Nothing in this section shall prohibit an owner of an owner-occupied residential unit or resident of a leased or rented residential unit from readjusting the temperature setting after occupancy. Any readjustment of the temperature setting by the resident relieves the owner or agent of an individual residential unit and the manufacturer of water heaters from liability for damages attributed to the readjustment by the resident.

(5) The utility providing energy for any water heater under this section shall at least annually, include in its billing a statement:

(a) Recommending that water heaters be set no higher than one hundred twenty degrees Fahrenheit or the minimum setting on a water heater which cannot be set as low as that temperature to prevent severe burns and reduce excessive energy consumption; and

(b) That the thermostat of an individual water heater furnished in a residential unit leased or rented in this state to new tenants shall be set no higher than one hundred twenty degrees Fahrenheit or the minimum setting on a water heater which cannot be set as low as that temperature pursuant to chapter 19.27 RCW.

(6) The manufacturer of a water heater under this section which is offered for sale or installed after July 24, 1983, shall have a tag attached to the thermostat access plate or immediately adjacent to exposed thermostats. The tag shall state that the thermostat settings above the preset temperature may cause severe burns and consume excessive energy.

(7) Nothing in this section requires or permits any inspections other than those otherwise required or permitted by law.

(8) This section does not apply to multiple-unit residences supplied by central water heater systems.

Passed the House January 30, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 120

[Substitute House Bill No. 321]

COUNTY ROAD FUNDS

AN ACT Relating to county road funds; amending RCW 46.68.120, 46.68.124, and 36.80.080; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 46.68.120, chapter 12, Laws of 1961 as last amended by section 1, chapter 33, Laws of 1982 and RCW 46.68.120 are each amended to read as follows:

Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any

funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

~~(2) ((Two-tenths of one percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation to carry out the responsibilities specified in RCW 46.68.124: PROVIDED, That any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;~~

~~(3))~~ All sums required to be repaid to counties composed entirely of islands shall be deducted;

~~((4))~~ (3) The balance of such funds remaining to the credit of counties after such deductions shall be paid to the several counties monthly, as such funds accrue, in accordance with RCW 46.68.122 and 46.68.124.

Sec. 2. Section 3, chapter 33, Laws of 1982 and RCW 46.68.124 are each amended to read as follows:

(1) The equivalent population for each county shall be computed as the sum of the population residing in the county's unincorporated area plus twenty-five percent of the population residing in the county's incorporated area. Population figures required for the computations in this subsection shall be certified by the director of the office of financial management on or before July 1st of each odd-numbered year~~((: PROVIDED HOWEVER, That for the purposes of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the director of the office of financial management shall furnish to the secretary of transportation those population figures required for the computation that were effective July 1, 1981))~~.

(2) The total annual road cost for each county shall be computed as the sum of one twenty-fifth of the total estimated county road replacement cost, plus the total estimated annual maintenance cost. Appropriate costs for bridges and ferries shall be included. The ~~((secretary of transportation with the advice and assistance of the))~~ county road administration board shall be responsible for establishing a uniform system of roadway categories for both maintenance and construction and also for establishing a single state-wide cost per mile rate for each roadway category. The total annual cost for each county will be based on the established state-wide cost per mile and associated mileage for each category. The mileage to be used for these computations shall be as shown in the county road log as maintained by the ~~((secretary of transportation))~~ county road administration board as of July 1, ~~((1983))~~ 1985, and each two years thereafter. Each county shall be responsible for submitting changes, corrections, and deletions as regards the county road log to the ~~((secretary of transportation))~~ county road administration board. Such changes, corrections, and deletions shall be subject to verification and approval by the ~~((secretary of transportation))~~ county

road administration board prior to inclusion in the county road log(~~(-PROVIDED HOWEVER, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the total annual road costs shall be those shown on page K-3, column 4 of the "1980 Cost Factor Study" published December 9, 1980, by the department of transportation)~~)).

(3) The money need factor for each county shall be the county's total annual road cost less the following four amounts:

(a) One-half the sum of the actual county road tax levied upon the valuation of all taxable property within the county road districts pursuant to RCW 36.82.040 for the two calendar years next preceding the year of computation of the allocation amounts as certified by the department of revenue;

(b) One-half the sum of all funds received by the county road fund from the federal forest reserve fund pursuant to RCW (~~(36.33.110)~~) 28A.02.300 and 28A.02.310 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(c) One-half the sum of timber excise taxes received by the county road fund pursuant to chapter 84.33 RCW in the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(d) One-half the sum of motor vehicle license fees and motor vehicle and special fuel taxes refunded to the county, pursuant to RCW 46.68.080 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer.

(4) The state treasurer and the department of revenue shall furnish to the ~~((secretary of transportation))~~ county road administration board the information required by subsection (3) of this section on or before July 1st of each odd-numbered year(~~(-PROVIDED HOWEVER, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the information required by subsection (3) of this section shall be for calendar years 1980 and 1981)~~)).

(5) The ~~((secretary of transportation, with the advice and assistance of the))~~ county road administration board, shall compute and provide to the counties the allocation factors of the several counties on or before September 1st of each year based solely upon the sources of information herein before required: PROVIDED, That the allocation factor shall be held to a level not more than five percent above or five percent below the allocation factor in use during the previous calendar year. Upon computation of the actual allocation factors of the several counties, the ~~((secretary of transportation))~~ county road administration board shall provide such factors to the state treasurer to be used in the computation of the counties' fuel tax allocation for the succeeding calendar year. The state treasurer shall adjust the

fuel tax allocation of each county on January 1st of every year based solely upon the information provided by the ~~((secretary of transportation))~~ county road administration board.

~~((6) Notwithstanding the provisions of subsection (5) of this section; the secretary of transportation, with the advice and assistance of the county road administration board, shall adjust, as necessary, the allocation percentages of the several counties so that no county shall in any calendar year receive less than eighty-five percent of the actual funds distributed to that county in calendar year 1981 under this section. The eighty-five percent entitlement of funds authorized by this subsection shall be reduced proportionally in the succeeding year in the event that the total amount of funds distributed to the counties under this section in any year is less than the distribution of such funds in 1981.))~~

Sec. 3. Section 36.80.080, chapter 4, Laws of 1963 as amended by section 34, chapter 7, Laws of 1984 and RCW 36.80.080 are each amended to read as follows:

The division of municipal corporations shall annually make a cost-audit examination of the books and records of the county road engineer and make a written report thereon to the county legislative authority. The expense of the examination shall be paid ~~((out of that portion of the motor vehicle fund allocated to the several counties and withheld for use of the department of transportation under the terms of RCW 46.68.120(1). The state auditor shall certify the expense of such examination to the department))~~ from the county road fund.

NEW SECTION. Sec. 4. Section 3 of this act shall take effect July 1, 1987.

Passed the House March 14, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 121

[Substitute House Bill No. 460]

TELEPHONE SOLICITATION—WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION TO STUDY

AN ACT Relating to telephone solicitation; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) The legislature finds that telephone solicitations by commercial and charitable organizations are increasing and that such solicitations cause increasing intrusions on the legitimate privacy rights of Washington citizens. The legislature further finds that current

state law regulating such solicitations may be inadequate to allow telephone subscribers to adequately protect their privacy rights.

(2) The legislature directs the Washington utilities and transportation commission to study telephone solicitations in Washington state. The study shall include: The extent of telephone solicitations in Washington; the legal basis for regulating such solicitations; whether voluntary approaches to regulation can be developed; whether regulatory distinctions may be made between charitable and commercial solicitations; alternative approaches to regulating telephone solicitations; and suggestions for any needed legislation. The commission shall deliver its report to the legislature no later than December 1, 1985.

Passed the House March 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 122

[Substitute House Bill No. 837]

UNIVERSITY OF WASHINGTON—CENTER FOR INTERNATIONAL TRADE IN FOREST PRODUCTS

AN ACT Relating to international trade; establishing a center for international trade in forest products at the University of Washington; adding a new chapter to Title 76 RCW; adding new sections to chapter 43.131 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is created a center for international trade in forest products at the University of Washington in the college of forest resources, which shall be referred to in this chapter as "the center." The center shall operate under the authority of the board of regents of the University of Washington.

NEW SECTION. Sec. 2. The center shall:

(1) Coordinate the University of Washington's college of forest resources' faculty and staff expertise to assist in:

(a) The development of research and analysis for developing policies and strategies which will expand forest-based international trade, including trade in manufactured forest products;

(b) The development of technology for manufactured products that will meet the evolving needs of international customers; and

(c) The coordination, development, and dissemination of market and technical information relevant to international trade in forest products;

(2) Further develop and maintain a computer based world-wide forest products production and trade data base system and coordinate this system with state, federal, and private sector efforts to insure a cost-effective information resource that will avoid unnecessary duplication;

(3) Monitor international forest products markets and assess the status of the state's forest products industry, including the competitiveness of the forest products industry and including the increased exports of Washington-produced products;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in forest products in cooperation with the University of Washington's graduate school of business administration, the school of law, the Jackson school of international studies, and other supporting academic units;

(5) Develop cooperative linkages with the international marketing program for agricultural commodities and trade at Washington State University, the international trade project of the United States forest service, the department of natural resources, the department of commerce and economic development, the export assistance center, and other state and federal agencies to avoid duplication of effort and programs;

(6) Provide for public dissemination of research, analysis, and results of the center's programs through technical workshops, short courses, international and national symposia, or other means, including appropriate publications; and

(7) Establish advisory or technical committees as necessary to develop policies, operating procedures, and program priorities consistent with the international trade opportunities achievable by the forest products sector of the state and region. Service on the committees shall be without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.30.060.

NEW SECTION. Sec. 3. The center shall be administered by a director appointed by the dean of the college of forest resources of the University of Washington. The director shall be a member of the professional staff of that college.

NEW SECTION. Sec. 4. The governor, the legislature, state agencies, and the public may use the center's programs, research, and advisory services as may be needed. The center shall establish a schedule of fees for actual services rendered.

NEW SECTION. Sec. 5. The center shall aggressively solicit financial contributions and support from the forest products industry, federal and state agencies, and other granting sources or through other arrangements to assist in conducting its activities. The center shall report on December 1 of each year to the governor and the legislature on its success in obtaining funding from nonstate sources. It may also use separately appropriated funds of the University of Washington for the center's activities.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act shall constitute a new chapter in Title 76 RCW.

NEW SECTION. Sec. 8. A new section is added to chapter 43.131 RCW to read as follows:

The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, 1990, as provided in section 9 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 43.131 RCW to read as follows:

Sections 1 through 5 of this act and chapter 76. RCW, as now existing or as hereafter amended, are each repealed, effective June 30, 1991.

Passed the House March 15, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 123

[Engrossed Substitute House Bill No. 223]

HYDRAULIC PROJECTS STUDY TO BE UNDERTAKEN

AN ACT Relating to hydraulic projects; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A study committee composed of two members of the agriculture committee of the house of representatives, two members of the agriculture committee of the senate, a representative of the department of fisheries, a representative of the department of game, a representative of the department of ecology, a representative of the department of agriculture, and three representatives of the agricultural industry selected by the department of agriculture shall conduct a study of the effects of regulating hydraulic projects under RCW 75.20.100 on the timely use and protection of water rights for agricultural uses of surface waters. The purpose of the study shall be to identify the extent of such regulation which would protect fish and wildlife resources yet would permit the timely and cost-effective diversion of the waters. The results of the study, in the form of any proposed legislation, shall be submitted to the speaker of the house and the president of the senate by December 15, 1985, for consideration during the 1986 regular legislative session.

The members shall elect a chairman of the study committee. Legislative members of the committee shall be selected one from each political party from both the House and the Senate and shall receive compensation

in accordance with chapter 44.04 RCW. Other members of the committee shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Passed the House March 16, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 124

[Substitute House Bill No. 94]

PUBLIC HEALTH DIRECTOR APPOINTMENT MODIFIED

AN ACT Relating to local health departments and officers; and amending RCW 70.08.010, 70.08.020, 70.08.030, and 70.08.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 46, Laws of 1949 and RCW 70.08.010 are each amended to read as follows:

Any city with one hundred thousand or more population and the county in which it is located, are authorized, as shall be agreed upon between the respective governing bodies of such city and said county, to establish and operate a combined city and county health department, and to appoint the director of public health (~~(as hereinafter provided: The combination of such city and county health department under this chapter shall be effective whenever the governing body of the city with one hundred thousand or more population shall pass an ordinance and the board of county commissioners of the county in which it is located shall pass a resolution declaring intention to operate a combined health department in accordance with agreements made between their respective governing bodies)).~~

Sec. 2. Section 2, chapter 46, Laws of 1949 and RCW 70.08.020 are each amended to read as follows:

The director of public health is authorized to and shall exercise all powers and perform all duties by law vested in the ((county)) local health officer(~~(, and is authorized to and shall exercise all powers and perform all duties by law vested in the health officer of said city of one hundred thousand population or more)).~~

Sec. 3. Section 3, chapter 46, Laws of 1949 as amended by section 3, chapter 25, Laws of 1984 and RCW 70.08.030 are each amended to read as follows:

Notwithstanding any provisions to the contrary contained in any city or county charter, the director of public health, under this chapter shall meet as a minimum one of the following standards of educational achievement and vocational experience to be qualified for appointment to the office:

(1) Bachelor's degree in business administration, public administration, hospital administration, management, nursing, environmental health, epidemiology, public health, or its equivalent and five years of experience in administration in a community-related field; or

(2) A graduate degree in any of the fields listed in subsection (1) of this section, or in medicine or osteopathy, plus three years of administrative experience in a community-related field.

The director shall not engage in the private practice of the director's profession during such tenure of office and shall not be included in the classified civil service of the said city or the said county.

If the director of public health does not meet the qualifications of a health officer or a physician under RCW 70.05.050, the director shall employ a person so qualified to advise the director on medical or public health matters.

Sec. 4. Section 4, chapter 46, Laws of 1949 as amended by section 1, chapter 57, Laws of 1980 and RCW 70.08.040 are each amended to read as follows:

~~((1) Except as provided in subsection (2) of this section, the director of public health under this chapter shall be appointed by the mayor of the city of one hundred thousand population or more, such appointment to be effective only upon a majority vote confirmation of each legislative authority of said city and said county. He shall be paid such salary and allowed such expenses as shall be determined annually by the legislative authorities of said city and said county. He shall hold office for an indefinite term and may be removed at any time by the mayor of said city only for cause shown and after public hearing on charges reduced to writing, a copy of such charges having first been filed ten days prior to such public hearing with the legislative authorities of said city and of said county.~~

(2)) Notwithstanding any provisions to the contrary contained in any city or county charter, where a combined department is established under this chapter ((involving a city with a population of four hundred thousand or more and a class AA county in which such city is located)), the director of public health under this chapter shall be appointed by the county executive of the county and the mayor of the city for a term of four years and until a successor is appointed and confirmed. The director of public health may be reappointed by the county executive of the county and the mayor of the city for additional four year terms. The appointment shall be effective only upon a majority vote confirmation of the legislative authority of the county and the legislative authority of the city. The director may be removed by the county executive of the county, after consultation with the

mayor of the city, upon filing a statement of reasons therefor with the legislative authorities of the county and the city.

Passed the House February 18, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 125

[Substitute House Bill No. 802]

PORT DISTRICTS—ECONOMIC DEVELOPMENT IS A PUBLIC PURPOSE

AN ACT Relating to economic development; and adding a new section to chapter 53.08 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 53.08 RCW to read as follows:

It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

Passed the House April 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 126

[Substitute House Bill No. 839]

COMPREHENSIVE PLANS—LAND USE ELEMENT TO ADDRESS WATER RUN-OFF AND DISCHARGES THAT POLLUTE PUGET SOUND

AN ACT Relating to land use; and amending RCW 35.63.090, 35A.63.061, and 36.70.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35.63.090, chapter 7, Laws of 1965 as last amended by section 1, chapter 253, Laws of 1984 and RCW 35.63.090 are each amended to read as follows:

All regulations shall be worked out as parts of a comprehensive plan which each commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated

development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to encourage and protect access to direct sunlight for solar energy systems; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements, including protection of the quality and quantity of ground water used for public water supplies. Each plan shall include a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

Sec. 2. Section 35A.63.061, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 253, Laws of 1984 and RCW 35A.63.061 are each amended to read as follows:

The comprehensive plan shall be in such form and of such scope as the code city's ordinance or charter may require. It may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain, or depict the elements of the plan; and it shall include a recommended plan, scheme, or design for each of the following elements:

(1) A land-use element that designates the proposed general distribution, general location, and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public, and other categories of public and private uses of land. The land-use element shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies and shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

(2) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major terminal facilities, all of which shall be correlated with the land-use element of the comprehensive plan.

Sec. 3. Section 36.70.330, chapter 4, Laws of 1963 as amended by section 3, chapter 253, Laws of 1984 and RCW 36.70.330 are each amended to read as follows:

The comprehensive plan shall consist of a map or maps, and descriptive text covering objectives, principles and standards used to develop it, and shall include each of the following elements:

(1) A land use element which designates the proposed general distribution and general location and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land, including a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan, all correlated with the land use element of the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies and shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound;

(2) A circulation element consisting of the general location, alignment and extent of major thoroughfares, major transportation routes, trunk utility lines, and major terminal facilities, all of which shall be correlated with the land use element of the comprehensive plan;

(3) Any supporting maps, diagrams, charts, descriptive material and reports necessary to explain and supplement the above elements.

Passed the House March 20, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 127

[Engrossed Substitute House Bill No. 459] SALE OF KOSHER FOOD PRODUCTS ACT

AN ACT Relating to the sale of kosher food; adding a new chapter to Title 69 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This chapter shall be known as the sale of kosher food products act of 1985.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Food product" includes any article other than drugs, whether in raw or prepared form, liquid or solid, or packaged or unpackaged, and which is used for human consumption.

(2) "Kosher" means a food product which has been prepared, processed, manufactured, maintained, and sold in accordance with the requisites of traditional Jewish dietary law.

(3) "Person" includes individuals, partnerships, corporations, and associations.

NEW SECTION. Sec. 3. No person may knowingly sell or offer for sale any food product represented as "kosher" or "kosher style" when that person knows that the food product is not kosher and when the representation is likely to cause a prospective purchaser to believe that it is kosher. Such a representation can be made orally or in writing, or by display of a sign, mark, insignia, or simulation.

NEW SECTION. Sec. 4. A violation of this chapter shall constitute a violation of the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 5. Any person who violates any provision of this chapter shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 69 RCW.

Passed the House March 1, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 128

[Substitute House Bill No. 1129]

PARKING AND BUSINESS IMPROVEMENT AREAS—PURPOSES EXPANDED TO INCLUDE MAINTENANCE AND SECURITY FOR COMMON, PUBLIC AREAS

AN ACT Relating to business improvement areas; and amending RCW 35.87A.010 and 35.87A.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 45, Laws of 1971 ex. sess. as amended by section 1, chapter 279, Laws of 1981 and RCW 35.87A.010 are each amended to read as follows:

To aid general economic development and to facilitate merchant and business cooperation which assists trade, the legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish, after a petition submitted by the operators responsible for 60 percent of the assessments by businesses within the area, parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

- (a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;
- (b) Decoration of any public place in the area;
- (c) Promotion of public events which are to take place on or in public places in the area;
- (d) Furnishing of music in any public place in the area;

(e) Providing professional management, planning, and promotion for the area, including the management and promotion of retail trade activities in the area; or

(f) Providing maintenance and security for common, public areas.

(2) To levy special assessments on all businesses within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter.

Sec. 2. Section 8, chapter 45, Laws of 1971 ex. sess. as amended by section 2, chapter 279, Laws of 1981 and RCW 35.87A.080 are each amended to read as follows:

For purposes of the special assessments to be imposed pursuant to this chapter, the legislative authority may make a reasonable classification of businesses, giving consideration to various factors such as business and occupation taxes imposed, square footage of the business, number of employees, gross sales, or any other reasonable factor relating to the benefit received, including the degree of benefit received from parking. Whenever it is proposed that a parking and business improvement area provide more than one of the purposes listed in RCW 35.87A.010, special assessments may be imposed in a manner that measures benefit from each of the separate purposes, or any combination of the separate purposes. Special assessments shall be imposed and collected annually, or on another basis specified in the ordinance establishing the parking and business improvement area.

Passed the House March 21, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 129

[House Bill No. 251]

FRAUDULENT USE OF COMMERCIAL SKI AREA FACILITIES

AN ACT Relating to commercial ski areas; amending RCW 19.48.110; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that commercial ski areas, which contribute significantly to the economic well-being of the state, suffer substantial financial losses from the fraudulent use of their facilities by persons who obtain services without paying for them. It is therefore the intent of the legislature that the law that protects hotels, inns, and restaurants from such fraud be extended to also protect commercial ski areas.

Sec. 2. Section 2, page 96, Laws of 1890 as last amended by section 1, chapter 21, Laws of 1974 ex. sess. and RCW 19.48.110 are each amended to read as follows:

Any person who shall wilfully obtain food, money, credit, use of ski area facilities, lodging or accommodation at any hotel, inn, restaurant, commercial ski area, boarding house or lodging house, without paying therefor, with intent to defraud the proprietor, owner, operator or keeper thereof; or who obtains food, money, credit, use of ski area facilities, lodging or accommodation at such hotel, inn, restaurant, commercial ski area, boarding house or lodging house, by the use of any false pretense; or who, after obtaining food, money, credit, use of ski area facilities, lodging, or accommodation at such hotel, inn, restaurant, commercial ski area, boarding house, or lodging house, removes or causes to be removed from such hotel, inn, (~~+~~), restaurant, commercial ski area, boarding house or lodging house, his or her baggage, without the permission or consent of the proprietor, manager or authorized employee thereof, before paying for such food, money, credit, use of ski area facilities, lodging or accommodation, shall be guilty of a gross misdemeanor: PROVIDED, That if the aggregate amount of food, money, use of ski area facilities, lodging or accommodation, or credit so obtained is seventy-five dollars or more such person shall be guilty of a felony. Proof that food, money, credit, use of ski area facilities, lodging or accommodation were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that the person refused or neglected to pay for such food, money, credit, use of ski area facilities, lodging or accommodation on demand, or that he or she gave in payment for such food, money, credit, use of ski area facilities, lodging or accommodation, negotiable paper on which payment was refused, or that he or she absconded, or departed from, or left, the premises without paying for such food, money, credit, use of ski area facilities, lodging or accommodation, or that he or she removed, or attempted to remove, or caused to be removed, or caused to be attempted to be removed his or her property or baggage, shall be prima facie evidence of the fraudulent intent hereinbefore mentioned.

Passed the House March 14, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 130

[Substitute House Bill No. 831]

LOCAL GOVERNMENT BOND INFORMATION—FILING OF INFORMATION
WITH DEPARTMENT OF COMMUNITY DEVELOPMENT REQUIRED

AN ACT Relating to indebtedness; adding new sections to chapter 39.44 RCW; and adding a new section to chapter 43.63A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 39.44 RCW to read as follows:

Each local government that issues any type of bond, where the state fiscal agency does not act as the bond registrar for the bond issue, shall supply the department of community development with information on the bond issue within thirty days of its issuance. The bond issue information shall be provided on a form prescribed by the department of community development and shall include: (1) The par value of the bond issue; (2) the effective interest rates; (3) a schedule of maturities; (4) the purposes of the bond issue; and (5) the type of bonds that are issued. A copy of the bond covenants shall be supplied with this information.

NEW SECTION. Sec. 2. A new section is added to chapter 39.44 RCW to read as follows:

Whenever the state fiscal agency acts as the bond registrar for a local government which issues any type of bond, the state fiscal agency shall supply the department of community development within thirty days of the issuance with the information on the bond issue that is required to be supplied by a local government pursuant to section 1 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 39.44 RCW to read as follows:

The department of community development may adopt rules and regulations pursuant to the administrative procedure act to require the submission of additional information on bond issues by local governments, including summaries of outstanding bond issues.

NEW SECTION. Sec. 4. A new section is added to chapter 39.44 RCW to read as follows:

Failure to file the information required by sections 1 through 3 of this act shall not affect the validity of the bonds that are issued.

NEW SECTION. Sec. 5. A new section is added to chapter 39.44 RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 5 of this act.

(1) "Bond" means "bond" as defined in RCW 39.46.020, but also includes any other indebtedness that may be issued by any local government

to fund private activities or purposes where the indebtedness is of a nonrecourse nature payable from private sources, except obligations subject to chapter 39.84 RCW.

(2) "Local government" means "local government" as defined in RCW 39.46.020.

(3) "Type of bond" includes: (a) General obligation bonds; (b) revenue bonds; (c) local improvement district bonds; (d) special assessment bonds such as those issued by irrigation districts and diking districts; and (e) other classes of bonds.

NEW SECTION. Sec. 6. A new section is added to chapter 43.63A RCW to read as follows:

The department of community development shall retain the bond information it receives under sections 1 through 3 of this act and shall publish summaries of local government bond issues at least once a year.

The department of community development shall adopt rules under chapter 34.04 RCW to implement sections 1 through 3 of this act.

Passed the House April 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 131

[Substitute House Bill No. 469]

NATUROPATHIC MEDICINE—VENIPUNCTURE AUTHORIZED

AN ACT Relating to naturopathic medicine; and amending RCW 18.36.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 36, Laws of 1919 and RCW 18.36.010 are each amended to read as follows:

The term "drugless therapeutics," as used in RCW 18.36.010 through 18.36.165 consists of hydrotherapy, dietetics, electrotherapy, radiography, sanitation, suggestion, mechanical and manual manipulation for the stimulation of physiological and psychological action to establish a normal condition of mind and body, including the use of severance and penetration of the skin for purposes only of withdrawing blood samples for diagnostic purposes (venipuncture), but shall in no way include the giving, prescribing, or recommending of pharmaceutical drugs and poisons for internal use, the purpose of RCW 18.36.010 through 18.36.165 being to confine practitioners (~~hereunder~~) under this chapter to drugless therapeutics. The legislative budget committee shall specifically study the appropriateness of venipuncture within this definition pursuant to the sunset review process provided for in chapter 43.131 RCW.

The words "certificate" and "license" shall be ~~((known-as))~~ interchangeable terms in this chapter, but nothing in this section affects the definitions of these terms in chapter 18.120 RCW.

Passed the House March 19, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 132

[House Bill No. 1000]

TRADE-IN PROPERTY OF LIKE KIND—USE TAX EXEMPTION

AN ACT Relating to use taxation; and amending RCW 82.12.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.12.010, chapter 15, Laws of 1961 as last amended by section 2, chapter 55, Laws of 1983 1st ex. sess. and RCW 82.12.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property except trade-in property of like kind, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe.

In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe: **PROVIDED**, That in case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to

chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules and regulations as the department of revenue may prescribe.

In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (a) The retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(2) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state;

(3) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(4) "Retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter;

(5) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services.

Passed the House March 19, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 133

[House Bill No. 1004]

INTESTATE ESTATES HAVING ESCHEAT PROPERTY—ADMINISTRATION BY
THE DIRECTOR OF REVENUE AUTHORIZED

AN ACT Relating to revenue and taxation; and amending RCW 11.28.120 and 43.10.067.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11.28.120, chapter 145, Laws of 1965 and RCW 11.28.120 are each amended to read as follows:

Administration of the estate of the person dying intestate shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving husband or wife, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(4) One or more of the principal creditors.

~~((4))~~ (5) If the persons so entitled shall fail for more than forty days after the death of the intestate to present a petition for letters of administration, or if it appear to the satisfaction of the court that there are no relatives or next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint any suitable person to administer such estate.

Sec. 2. Section 43.10.067, chapter 8, Laws of 1965 as amended by section 1, chapter 268, Laws of 1981 and RCW 43.10.067 are each amended to read as follows:

No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and RCW 43.10.065 through 43.10.080 shall not apply to the administration of the judicial council, the judicial qualifications commission, the state law library, the

law school of the state university, ((or)) the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW(~~(, RCW 44.24.050,)~~) and RCW 44.28.140 shall not be affected hereby.

Passed the House March 19, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 134

[House Bill No. 1006]

EXCISE TAXES—CONSUMER—DEFINITION EXPANDED TO INCLUDE PERSONS MOVING DIRT AND CLEARING LAND FOR FEDERAL GOVERNMENT

AN ACT Relating to excise tax definitions; and amending RCW 82.04.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.04.190, chapter 15, Laws of 1961 as last amended by section 27, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.190 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in any business activity taxable under RCW 82.04.290 and any person who purchases, acquires, or uses any telephone service as defined in RCW 82.04.065, other than for resale in the regular course of business;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right

of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person.

Passed the House March 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 135

[House Bill No. 1009]

BUSINESS AND OCCUPATION TAX—EXEMPTIONS—PRIVATE COLLEGES'
TUITION AND FEES—LOW-LEVEL WASTE REFERENCE CORRECTED

AN ACT Relating to administrative and definitional changes to the excise tax laws; and amending RCW 82.04.170 and 82.04.260.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.04.170, chapter 15, Laws of 1961 and RCW 82.04.170 are each amended to read as follows:

"Tuition fee" includes library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this section, means only those institutions created or generally accredited as such by the state, or defined as a degree granting institution under RCW 28B.05.030(10) and accredited by an accrediting association recognized by the United States secretary of education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions.

Sec. 2. Section 5, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to

such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

(8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

(12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the

gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(13) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter ((43.21F)) 43.200 RCW, multiplied by the rate of thirty percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(14) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of one percent.

Passed the House March 19, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 136

[House Bill No. 261]

SCHOOL PLANT FACILITIES—TECHNICAL CLARIFICATIONS AND
OBSOLETE REFERENCE REMOVAL

AN ACT Relating to school plant facilities; amending RCW 28A.47.100 and 28A.47.830; and repealing RCW 28A.47.055, 28A.47.070, 28A.47.760, 28A.47.762, 28A.47.764, 28A.47.766, 28A.47.768, 28A.47.770, 28A.47.772, and 28A.47.774.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28A.47.100, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.100 are each amended to read as follows:

The superintendent of public instruction shall furnish (1) to school districts seeking state assistance (~~(under the provisions of RCW 28A.47.050 through 28A.47.120)~~) consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board (~~(under the provisions of RCW 28A.47.050 through 28A.47.120)~~).

Sec. 2. Section 1, chapter 227, Laws of 1977 ex. sess. and RCW 28A.47.830 are each amended to read as follows:

Notwithstanding any other provision of this chapter, (~~on and after September 21, 1977,~~) the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW 28A.47.050, 28A.47.060, 28A.47.073, 28A.47.075, 28A.47.080, 28A.47.090, 28A.47.100, 28A.47.120, and 28A.47.801 through 28A.47.809.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

(1) Section 28A.47.055, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.055;

(2) Section 28A.47.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.070;

(3) Section 28A.47.760, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.760;

(4) Section 28A.47.762, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.762;

(5) Section 28A.47.764, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.764;

(6) Section 28A.47.766, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.766;

(7) Section 28A.47.768, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.768;

(8) Section 28A.47.770, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.770;

(9) Section 28A.47.772, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.772; and

(10) Section 28A.47.774, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.774.

Passed the House March 4, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 137

[House Bill No. 293]

REGIONAL UNIVERSITIES AND THE EVERGREEN STATE COLLEGE—BOARD OF TRUSTEES MEMBERSHIP INCREASED

AN ACT Relating to governing boards at the institutions of higher education; and amending RCW 28B.35.100 and 28B.40.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 45, chapter 169, Laws of 1977 ex. sess. as amended by section 4, chapter 103, Laws of 1979 ex. sess. and RCW 28B.35.100 are each amended to read as follows:

The governance of each of the regional universities shall be vested in a board of trustees consisting of (~~five~~) seven members. They shall be appointed by the governor with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year.

Sec. 2. Section 28B.40.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 103, Laws of 1979 ex. sess. and RCW 28B.40.100 are each amended to read as follows:

The governance of The Evergreen State College shall be vested in a board of trustees consisting of (~~five~~) seven members. They shall be appointed by the governor with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor

shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year.

Passed the House February 18, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 138

[House Bill No. 643]

PUBLIC EMPLOYEES' RETIREMENT SYSTEM—DIRECT BILLING OF EMPLOYERS

AN ACT Relating to billing for employers' payments to the public employees' retirement system; and amending RCW 41.40.370.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3b, chapter 274, Laws of 1947 as last amended by section 22, chapter 52, Laws of 1982 1st ex. sess. and RCW 41.40.370 are each amended to read as follows:

(1) The director shall ascertain and report to each employer the contribution rates necessary to meet present and future pension liabilities of the system for the ensuing biennium or fiscal year, whichever is applicable. The amount to be so provided shall be computed by applying the rates of contribution as established by RCW 41.40.361 or 41.40.650 to an estimate of the total compensation earnable of all the said employer's members during the period for which provision is to be made.

(2) Beginning April 1, 1949, or October 1, 1977, as the case may be, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established by RCW 41.40.361 or 41.40.650 to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer (~~((through the director of financial management))~~) for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a

proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls.

Passed the House March 19, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 139

[House Bill No. 675]

STEPCHILDREN—POTENTIAL PLAINTIFFS IN WRONGFUL DEATH ACTION

AN ACT Relating to stepchildren; and amending RCW 4.20.020 and 4.20.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 123, Laws of 1917 as amended by section 2, chapter 154, Laws of 1973 1st ex. sess. and RCW 4.20.020 are each amended to read as follows:

Every such action shall be for the benefit of the wife, husband, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no wife or husband or such child or children, such action may be maintained for the benefit of the parents, sisters or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

Sec. 2. Section 495, page 220, Laws of 1854 as last amended by section 3, chapter 154, Laws of 1973 1st ex. sess. and RCW 4.20.060 are each amended to read as follows:

No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, by reason of such death, if such person has a surviving spouse or child living, including stepchildren, or leaving no surviving spouse or (~~issue~~) such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator of the deceased, in favor of such surviving spouse, or in favor of the surviving spouse and such children, or if no surviving spouse, in favor of such child or children, or if no surviving spouse or such child or children,

then in favor of the decedent's parents, sisters or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death.

Passed the House March 13, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 140

[House Bill No. 720]

HIGHWAY CONSTRUCTION STABILIZATION ACCOUNT

AN ACT Relating to the highway construction stabilization account; adding new sections to chapter 46.68 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The highway construction stabilization account is established in the motor vehicle fund. Moneys in the account may be spent to supplement available motor vehicle fund revenues only for the purposes set forth in section 3 of this act.

NEW SECTION. Sec. 2. (1) There shall be deposited in the highway construction stabilization account the amounts specified by subsection (2) of this section and such other amounts as the legislature may from time to time direct to be deposited in the account.

(2) At the conclusion of each biennium, the state treasurer shall transfer the unexpended cash balance in the motor vehicle fund in excess of the minimum required working capital balance established by the transportation commission to the highway construction stabilization account.

NEW SECTION. Sec. 3. Moneys in the highway construction stabilization account may be spent by the department of transportation only for the following purposes:

(1) To fund state highway improvement program expenditures if available motor vehicle fund revenues are not sufficient to fund legislative appropriations;

(2) To fund state highway improvement program appropriations that otherwise would require the use of bond proceeds; and

(3) To meet temporary seasonal cash requirements in the motor vehicle fund.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are each added to chapter 46.68 RCW.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1985.

Passed the House March 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 141

[Substitute House Bill No. 1232]

WATER AND SEWER DISTRICTS—ANNEXATIONS

AN ACT Relating to water and sewer districts; and amending RCW 36.94.420, 56.04-.070, 56.12.030, 56.24.120, 56.32.070, 57.04.070, 57.12.020, 57.24.070, and 57.32.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 147, Laws of 1984 and RCW 36.94.420 are each amended to read as follows:

If so provided in the transfer agreement, the area served by the system shall, upon completion of the transfer, be deemed annexed to and become a part of the water or sewer district acquiring the system. The county shall provide notice of the hearing by the county legislative authority on the ordinance executing the transfer agreement under RCW 36.94.330 as follows: (1) By mailed notice to all ratepayers served by the system at least fifteen days prior to the hearing; and (2) by notice in a newspaper of general circulation once at least fifteen days prior to the hearing.

In the event of an annexation under this section resulting from the transfer of a system of sewerage or combined water and sewer systems from a county to a water district governed by Title 57 RCW, the water district shall have all the powers of a water district provided by RCW 57.40.150, as if a sewer district had been merged into a water district. In the event of an annexation under this section as a result of the transfer of a system of water or combined water and sewer systems from a county to a sewer district governed by Title 56 RCW, the sewer district shall have all the powers of a sewer district provided by RCW 56.36.060 as if a water district had been merged into the sewer district.

Sec. 2. Section 5, chapter 210, Laws of 1941 as amended by section 3, chapter 45, Laws of 1981 and RCW 56.04.070 are each amended to read as follows:

Whenever two or more petitions for the formation of a sewer district shall be filed as provided in this chapter, the petition describing the greater area shall supersede all others, and an election shall first be held thereunder, and no lesser sewer district shall ever be created within the limits in whole or in part of any other sewer district, except as provided in RCW 56.36.060 and 36.94.420, as now or hereafter amended.

Sec. 3. Section 8, chapter 210, Laws of 1941 as last amended by section 2, chapter 169, Laws of 1981 and RCW 56.12.030 are each amended to read as follows:

Nominations for the first board of commissioners to be elected at the election for the formation of the sewer district shall be by petition of fifty qualified electors or ten percent of the qualified electors of the district, whichever is the smaller. The petition shall be filed in the auditor's office of the county in which the district is located at least thirty days before the election. Thereafter candidates for the office of sewer commissioner shall file declarations of candidacy and their election shall be conducted as provided by the general elections laws. A vacancy or vacancies shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners: PROVIDED, That if there are two vacancies on the board, one vacancy shall be filled by appointment by the remaining commissioner and the one remaining vacancy shall be filled by appointment by the then two commissioners and said appointed commissioners shall serve until the next regular election for commissioners(~~(: PROVIDED FURTHER, That)~~). If the vacancy or vacancies remain unfilled within six months of its or their occurrence, the county legislative authority in which the district is located shall make the necessary appointment or appointments. If there is a vacancy of the entire board a new board may be appointed by the board of county commissioners. Any person residing in the district who is at the time of election a qualified voter may vote at any election held in the sewer district.

All expense of elections for the formation or reorganization of a sewer district shall be paid by the county in which the election is held and the expenditure is hereby declared to be for a county purpose, and the money paid for that purpose shall be repaid to the county by the district if formed or reorganized.

Sec. 4. Section 6, chapter 11, Laws of 1967 ex. sess. and RCW 56.24-.120 are each amended to read as follows:

A petition for annexation of an area contiguous to a sewer district may be made in writing, addressed to and filed with the board of commissioners of the district to which annexation is desired. It must be signed by the owners, according to the records of the county auditor, of not less than sixty percent of the area of land for which annexation is petitioned, excluding county and state rights of way, parks, tidelands, lakes, retention ponds, and stream and water courses. Additionally, the petition shall set forth a description of the property according to government legal subdivisions or legal plats, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. Such county and state properties shall be excluded from local improvement districts or utility local improvement districts in the annexed area and from special assessments, rates, or charges of the district except where service has been regulated and provided to such

properties. The owners of such property shall be invited to be included within local improvement districts or utility local improvement districts at the time they are proposed for formation.

Sec. 5. Section 8, chapter 197, Laws of 1967 and RCW 56.32.070 are each amended to read as follows:

The sewer commissioners of all sewer districts consolidated into any new consolidated sewer district shall become sewer commissioners thereof until their respective terms of office expire. ~~((When the terms of expiration reduce the total number of remaining sewer commissioners to less than three then the board of commissioners of the consolidated sewer district shall be maintained at the number of three, in accordance with the provisions of RCW 56.12.020 and 56.12.030))~~ At each election of sewer commissioners following the consolidation, only one position shall be filled, so that as the terms of office expire the total number of sewer commissioners in the consolidated sewer district shall be reduced to three.

Sec. 6. Section 4, chapter 114, Laws of 1929 as amended by section 9, chapter 45, Laws of 1981 and RCW 57.04.070 are each amended to read as follows:

Whenever two or more petitions for the formation of a water district shall be filed as provided in this chapter, the petition describing the greater area shall supersede all others and an election shall first be held thereunder, and no lesser water district shall ever be created within the limits in whole or in part of any water district, except as provided in RCW 57.40.150 and 36.94.420, as now or hereafter amended.

Sec. 7. Section 3, chapter 18, Laws of 1959 as last amended by section 1, chapter 169, Laws of 1981 and RCW 57.12.020 are each amended to read as follows:

Nominations for the first board of commissioners to be elected at the election for the formation of the water district shall be by petition of at least twenty-five percent of the qualified electors of the district, or twenty-five of the qualified electors of the district, whichever is lesser, filed in the auditor's office of the county in which the district is located, at least thirty days prior to the election. Thereafter, candidates for the office of water commissioners shall file declarations of candidacy and their election shall be conducted as provided by the general election laws. A vacancy or vacancies on the board shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners: **PROVIDED**, That if there are two vacancies on the board, one vacancy shall be filled by appointment by the remaining commissioner and the one remaining vacancy shall be filled by appointment by the then two commissioners and said appointed commissioners shall serve until the next regular election for commissioners ~~((: PROVIDED FURTHER, That))~~. If the vacancy or vacancies remain unfilled within six months of its or their occurrence, the

county legislative authority in which the district is located shall make the necessary appointment or appointments. If there is a vacancy of the entire board a new board may be appointed by the board of county commissioners.

Any person residing in the district who is a qualified voter under the laws of the state may vote at any district election.

Sec. 8. Section 18, chapter 251, Laws of 1953 and RCW 57.24.070 are each amended to read as follows:

A petition for annexation of an area contiguous to a water district may be made in writing, addressed to and filed with the board of commissioners of the district to which annexation is desired. It must be signed by the owners, according to the records of the county auditor, of not less than sixty percent of the area of land for which annexation is petitioned, excluding county and state rights of way, parks, tidelands, lakes, retention ponds, and stream and water courses. Additionally, the petition shall set forth a description of the property according to government legal subdivisions or legal plats, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. Such county and state properties shall be excluded from local improvement districts or utility local improvement districts in the annexed area and from special assessments, rates, or charges of the district except where service has been regulated and provided to such properties. The owners of such property shall be invited to be included within local improvement districts or utility local improvement districts at the time they are proposed for formation.

Sec. 9. Section 13, chapter 267, Laws of 1943 and RCW 57.32.130 are each amended to read as follows:

The water commissioners of all water districts consolidated into any new consolidated water district shall become water commissioners thereof until their respective terms of office expire. (~~When the terms of expiration reduce the total number of remaining water commissioners to less than three then the board of commissioners of the consolidated water district shall be maintained at the number of three, in accordance with the provisions of RCW 57.12.020 and 57.12.030~~) At each election of water commissioners following the consolidation, only one position shall be filled, so that as the terms of office expire the total number of water commissioners in the consolidated water district shall be reduced to three.

Passed the House March 19, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 142

[Engrossed Substitute House Bill No. 133]
HIGHWAY INFORMATION PANELS

AN ACT Relating to highway information panels; amending RCW 47.42.046 and 47.42.047; and adding new sections to chapter 47.42 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 80, Laws of 1974 ex. sess. as amended by section 223, chapter 7, Laws of 1984 and RCW 47.42.046 are each amended to read as follows:

The department is authorized to erect and maintain specific information panels within the right of way of the interstate highway system to give the traveling public specific information as to gas, food, or lodging available on a crossroad at or near an interchange. Specific information panels shall include the words "GAS," "FOOD," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. Specific information panels are authorized within the corporate limits of cities and towns and areas zoned for commercial or industrial uses at locations where there is adequate distance between interchanges to ensure compliance with the provisions of Title 23 C.F.R. sec. 655.307(a). The erection and maintenance of specific information panels shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23, United States Code and rules adopted by the state department of transportation. A motorist service business shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building. The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance.

Sec. 2. Section 4, chapter 80, Laws of 1974 ex. sess. as amended by section 224, chapter 7, Laws of 1984 and RCW 47.42.047 are each amended to read as follows:

The department is authorized to erect and maintain specific information panels within the right of way of ~~((those portions))~~ both ~~((of))~~ the primary system and the scenic system ~~((lying outside of cities and towns and lying outside of commercial and industrial areas))~~ to give the traveling public specific information as to gas, food, recreation, or lodging available off the primary or scenic highway accessible by way of highways intersecting the primary or scenic highway. Such specific information panels shall be permitted only at locations within the corporate limits of cities and towns and areas zoned for commercial or industrial uses where there is adequate

distance between interchanges to ensure compliance with the provisions of Title 23 C.F.R. secs. 655.308(a) and 655.309(a). Specific information panels shall include the words "GAS," "FOOD," "RECREATION," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. The erection and maintenance of specific information panels along primary or scenic highways shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23 United States Code and rules adopted by the state department of transportation including the manual on uniform traffic control devices for streets and highways. A motorist service business shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building.

The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance.

NEW SECTION. Sec. 3. A new section is added to chapter 47.42 RCW to read as follows:

(1) Not more than six business signs may be permitted on specific information panels authorized by RCW 47.42.046 and 47.42.047.

(2) The maximum distance that eligible service facilities may be located on either side of an interchange or intersection to qualify for a business sign are as follows:

(a) On fully-controlled, limited access highways, gas, food, or lodging activities shall be located within three miles. Camping activities shall be within five miles.

(b) On highways with partial access control or no access control, gas, food, lodging, or camping activities shall be located within five miles.

(3) If no eligible services are located within the distance limits prescribed in subsection (2) of this section, the distance limits shall be increased until an eligible service of a type being considered is reached, up to a maximum of fifteen miles.

NEW SECTION. Sec. 4. A new section is added to chapter 47.42 RCW to read as follows:

If the secretary of the United States department of transportation finds any part of this chapter to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The

rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Passed the House March 18, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985.

Filed in Office of Secretary of State April 23, 1985.

CHAPTER 143

[Substitute House Bill No. 1191]

NEWLY INCORPORATED CITIES—TEMPORARY CONTINUATION OF LAW ENFORCEMENT SERVICES AND ROAD MAINTENANCE

AN ACT Relating to incorporation of cities and towns; and adding new sections to chapter 35.21 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

Counties shall continue to provide the following services to newly incorporated cities or towns at the preincorporation level as follows:

(1) Law enforcement services shall be provided for a period not to exceed sixty days or until the city or town is receiving or could have begun receiving sales tax distributions under RCW 82.14.020(1), whichever is the shortest time period.

(2) Road maintenance shall be for a period not to exceed sixty days or until any tax distribution from the road district tax levy is made to the newly incorporated city or town pursuant to RCW 35A.03.151 and 35A.03.152, whichever is the shorter time period.

***NEW SECTION.** Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

It is the desire of the legislature that the citizens of newly incorporated cities or towns receive uninterrupted and adequate services in the period prior to the city or town government attaining the ability to provide such service levels. In addition to the services provided under section 1 of this act, it is the purpose of this section to permit the county or counties in which a newly incorporated city or town is located to contract with the newly incorporated city or town for the continuation of essential services until the newly incorporated city or town has attained the ability to provide such services at least at the levels provided by the county before the incorporation. These essential services include but are not limited to, law enforcement, road and street maintenance, drainage and other utility services previously provided by the county before incorporation. In negotiating contracts for these and other services, the county shall grant credit to the newly incorporated city or town

for the value of county capital and equipment assets, current county budgetary amounts, and other county resources attributable, in part, to the property taxes, sales and use taxes, or special assessments that have been imposed on behalf of the county and road district within the boundaries of the newly incorporated city or town. This granting of credit is in recognition of the pre-existing financial investment that the citizens of the newly incorporated city or town have made in capital and equipment assets owned by the county, and county and road district taxes and special assessment imposed in the area.

Nothing in this section shall limit the ability of the county and the newly incorporated city or town to contract for higher service levels or for other time periods than those imposed by this section.

*Sec. 2 was vetoed, see message at end of chapter.

Passed the House March 21, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor April 23, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 23, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one provision, Substitute House Bill No. 1191, entitled:

"AN ACT Relating to incorporation of cities and towns; and adding new sections to Chapter 35.21 RCW."

The creation of a mandatory credit in section 2 could obligate county government to continue to provide services beyond the sixty day phase in period provided in section 1 without any compensation. The county could be required for a longer term to provide services even though the revenue (tax base) to pay for those services would be transferred to the city.

Counties and cities have in the past been able to work out cooperative interlocal agreements under RCW 39.34 to insure the continuation of essential public services. Section 1 which remains, insures a free start up period for newly created cities. Additional terms for services should be subject to mutual agreement without mandatory credits.

With the exception of section 2, Substitute House Bill No. 1191 is approved."

CHAPTER 144

[Substitute House Bill No. 1114]

ENERGY-RELATED BUILDING STANDARDS

AN ACT Relating to energy-related building standards; amending RCW 19.27.030 and 19.27.075; adding new sections to chapter 19.27 RCW; repealing RCW 19.27.200, 19.27.210, 19.27.220, 19.27.230, 19.27.240, 19.27.250, 19.27.260, 19.27.270, 19.27.280, 19.27.290, 19.27.300, 19.27.310, and 19.27.905; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 96, Laws of 1974 ex. sess. as last amended by section 1, chapter 101, Laws of 1984 and RCW 19.27.030 are each amended to read as follows:

There shall be in effect in all cities, towns, and counties of the state a state building code which shall consist of the following codes which are hereby adopted by reference:

(1) Uniform Building Code and Uniform Building Code Standards, 1982 edition, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, 1982 edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials;

(3) The Uniform Fire Code and Uniform Fire Code Standards, 1982 edition, published by the International Conference of Building Officials and the Western Fire Chiefs Association: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) The Uniform Plumbing Code and Uniform Plumbing Code Standards, 1982 edition, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That chapters 11 and 12 of such code are not adopted;

(5) The rules and regulations adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons as provided for in RCW 70.92.100 through 70.92.160; and

(6) ~~((The thermal performance and design standards for dwellings as set forth in RCW 19.27.210 through 19.27.290. This subsection shall be of no further force and effect when RCW 19.27.200 through 19.27.290 expire as provided in RCW 19.27.300))~~ The Washington state energy code, June 30, 1980, edition adopted by the state building code advisory council and amendments to the code adopted prior to January 1, 1985, the revision to the state energy code adopted pursuant to RCW 19.27.075, and subsequent amendments adopted by the council under chapter 34.04 RCW.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

Sec. 2. Section 3, chapter 76, Laws of 1979 ex. sess. and RCW 19.27.075 are each amended to read as follows:

(1) The state building code advisory council shall ((have authority to)) promulgate rules, pursuant to chapter 34.04 RCW, for the purpose of adopting a ((state-wide thermal efficiency and lighting)) revised state code ((to the extent necessary to comply with Title 10, Code of Federal Regulations, section 420.35. Such)). The revised code shall be designed to achieve reductions in energy consumption relative to buildings constructed to comply with the state energy code, June 30, 1980 edition, as amended. The council shall follow the legislature's guidelines set forth in this section to design a revised code which requires new buildings to meet a certain level of

energy efficiency, but allows flexibility in building design and construction within that framework. The revised code shall take into account regional climatic conditions(~~(; shall take effect prior to June 30, 1980; and shall be presented to the senate and house committees on energy and utilities at the time it is proposed as a draft rule)~~) and shall be designed according to the following guidelines:

(a) For new electric resistance heated residential buildings, the code shall be designed to achieve energy savings equivalent to savings achieved in typical buildings constructed with:

(i) Ceilings insulated to a level of R-38, except single rafter or joist vaulted ceilings may be insulated to a level of R-30 (R value includes insulation only);

(ii) Walls insulated to a level of R-19 (total assembly);

(iii) Floors over unheated spaces insulated to a level of R-19 for areas with six thousand or less annual heating degree days and to a level of R-25 for areas with more than six thousand annual heating degree days (R value includes insulation only);

(iv) Double glazed windows with tested R values not less than 1.79 when tested according to the procedures of the American architectural manufacturers association; and

(v) In areas with more than six thousand annual heating degree days a maximum of seventeen percent of the floor area in glazing; in areas with six thousand or less annual heating degree days a maximum of twenty-one percent of the floor area in glazing. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent.

(b) For new residential buildings which are space-heated with other fuels, the code shall be designed to achieve energy savings equivalent to savings achieved in typical buildings constructed with:

(i) Ceilings insulated to a level of R-30 (R value includes insulation only);

(ii) Walls insulated to a level of R-19 (total assembly);

(iii) Floors over unheated spaces insulated to a level of R-19 (R value includes insulation only);

(iv) Double glazed windows with tested R values not less than 1.40 when tested according to the procedures of the American architectural manufacturers association; and

(v) In areas with more than six thousand annual heating degree days a maximum of seventeen percent of the floor area in glazing; in areas with six thousand or less annual heating degree days a maximum of twenty-one percent of the floor area in glazing. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent.

(c) For new nonresidential buildings, the code shall be designed to achieve a ten percent reduction in energy consumption relative to buildings constructed to comply with the state energy code, June 30, 1980 edition, as amended.

(2) In developing the revised code, the council shall consider possible health and respiratory problems caused by insulating buildings so tightly that the rate of air exchange is significantly retarded, thereby concentrating toxic pollutants at unhealthy high levels.

(3) The council shall publish the revision as proposed rules pursuant to chapter 34.04 RCW and provide for the rules to become effective January 1, 1986. All cities, towns, and counties shall enforce the revised state energy code not later than April 1, 1986.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27 RCW to read as follows:

(1) The revised state energy code shall supersede all local government residential energy codes except as provided in subsections (2) and (3) of this section: PROVIDED, That cities, towns, and counties may adopt more energy efficient codes for residential construction if the builder or owner of new residential construction is reimbursed by an authorized federal agency for those additional costs to the consumer of conservation components that are attributable to the more energy efficient codes. This subsection shall not apply after January 1, 1989.

(2) The revised state energy code shall not preempt energy codes, adopted by a city, town, or county of the state prior to the effective date of this act or first class cities with a population over three hundred thousand which operate electrical utilities, that are designed to achieve reduction in energy consumption relative to the revised state energy code.

(3) The revised state energy code shall not preempt a less energy efficient energy code adopted by a county, city, or town if it can be shown that the revised state energy code is not cost-effective for that county, city, or town.

NEW SECTION. Sec. 4. A new section is added to chapter 19.27 RCW to read as follows:

(1) The University of Washington college of architecture and department of mechanical engineering shall conduct in situ testing of the annual thermal transmittance of individual construction components and conservation measures proposed for new residential construction by the northwest power planning council.

(2) There shall be a committee to oversee the study. The committee shall include the director of the state energy office as chair; two members recommended by the home building industry chosen by the governor; and two members nationally renowned as experts in building energy performance chosen by the governor.

(3) The study shall include an analysis of the economic feasibility of adopting thermal performance standards for new residential construction as proposed by the northwest power planning council. The study of economic feasibility shall include but not necessarily be limited to factors which shall not require an amortization of the individual components exceeding a life cycle of seven years and a discount rate (interest) computed at the current conventional market rate of home mortgages at par.

(4) The director of the state energy office shall make recommendations, based on the results of the study and the residential standards demonstration program, to the legislature and the state building code advisory council regarding the cost-effectiveness of the revised state energy code developed pursuant to RCW 19.27.075 no later than January 15, 1988.

(5) If federal funds are not available, the study shall be funded by a surcharge on building permit fees for new building construction imposed by all local governments of the state. The department of community development, after consultation with the state energy office, shall develop and implement a method of collecting the surcharge. The surcharge shall be ten dollars on all multifamily residential building permits, fifteen dollars on all single-family residential building permits, and fifteen dollars on all other building permits. The surcharge shall terminate on June 30, 1989, or at such time as the state general fund is reimbursed for the cost of the study.

NEW SECTION. Sec. 5. A new section is added to chapter 19.27 RCW to read as follows:

As used in this chapter, references to the state building code advisory council shall be construed to include any successor agency.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.200;
- (2) Section 2, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.210;
- (3) Section 3, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.220;
- (4) Section 4, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.230;
- (5) Section 5, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.240;
- (6) Section 6, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.250;
- (7) Section 7, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.260;
- (8) Section 8, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.270;
- (9) Section 9, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.280;
- (10) Section 10, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.290;
- (11) Section 14, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.300;
- (12) Section 16, chapter 14, Laws of 1977 ex. sess. and RCW 19.27-.310; and
- (13) Section 17, chapter 14, Laws of 1977 ex. sess. and RCW 19.27.905.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 12, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 24, 1985.

Filed in Office of Secretary of State April 24, 1985.

CHAPTER 145

[Substitute House Bill No. 4]

COUNTY SEATS—REMOVAL REQUIREMENTS

AN ACT Relating to the removal of county seats; and amending RCW 36.12.010, 36.12.080, and 36.12.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.12.010, chapter 4, Laws of 1963 and RCW 36.12.010 are each amended to read as follows:

Whenever the inhabitants of any county desire to remove the county seat of the county from the place where it is fixed by law or otherwise, they shall present a petition to the board of county commissioners of their county praying such removal, and that an election be held to determine to what place such removal must be made. The petition shall set forth the names of the towns or cities to which the county seat is proposed to be removed and shall be filed at least six months before the election. The county shall issue a statement analyzing the financial impact of the proposed removal at least sixty days before the election. The financial impact statement shall include, but not be limited to, an analysis of the: (1) Probable costs to the county government involved in relocating the county seat; (2) probable costs to county employees as a result of relocating the county seat; and (3) probable impact on the city or town from which the county seat is proposed to be removed, and on the city or town where the county seat is proposed to be relocated.

Sec. 2. Section 36.12.080, chapter 4, Laws of 1963 and RCW 36.12.080 are each amended to read as follows:

When an election has been held and no one place receives three-fifths of all the votes cast, the former county seat shall remain the county seat, and no second election may be held within ~~((four))~~ eight years thereafter.

Sec. 3. Section 36.12.090, chapter 4, Laws of 1963 and RCW 36.12.090 are each amended to read as follows:

When the county seat of a county has been removed by a popular vote of the people of the county, it may be again removed, from time to time, in the manner provided by this chapter, but no two elections to effect such removal may be held within ~~((four))~~ eight years.

Passed the House February 8, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 146

[Substitute Senate Bill No. 3342]

HORSE RACING

AN ACT Relating to horse racing; amending RCW 67.16.010, 67.16.020, 67.16.050, 67.16.060, 67.16.090, 67.16.100, 67.16.105, 67.16.130, 67.16.170, 67.16.175, 67.16.180, and 67.16.190; adding a new section to chapter 67.16 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 55, Laws of 1933 as last amended by section i, chapter 132, Laws of 1982 and RCW 67.16.010 are each amended to read as follows:

Unless the context otherwise requires, words and phrases as used herein shall mean:

"Commission" shall mean the Washington horse racing commission, hereinafter created.

"Person" shall mean and include individuals, firms, corporations and associations.

"Race meet" shall mean and include any exhibition of thoroughbred, quarter horse, paint horse, appaloosa horse racing, arabian horse racing, or standard bred harness horse racing, where the parimutuel system is used.

Singular shall include the plural, and the plural shall include the singular; and words importing one gender shall be regarded as including all other genders.

Sec. 2. Section 4, chapter 55, Laws of 1933 as amended by section 1, chapter 32, Laws of 1982 and RCW 67.16.020 are each amended to read as follows:

It shall be the duty of the commission, as soon as it is possible after its organization, to prepare and promulgate a complete set of rules and regulations to govern the race meets in this state. It shall determine and announce the place, time and duration of race meets for which license fees are exacted; and it shall be the duty of each person holding a license under the authority of this chapter, and every owner, trainer, jockey, and attendant at any race course in this state, to comply with all rules and regulations promulgated and all orders issued by the commission. It shall be unlawful for any person to hold any race meet without having first obtained and having in force and effect a license issued by the commission as in this chapter provided; and it shall be unlawful for any owner, trainer or jockey to participate in race meets in this state without first securing a license therefor from the state racing commission, the fee for which shall be set by the commission which shall offset the cost of administration and shall not be for a period (~~of more than two~~) exceeding three years.

Sec. 3. Section 6, chapter 55, Laws of 1933 as last amended by section 2, chapter 32, Laws of 1982 and RCW 67.16.050 are each amended to read as follows:

Every person making application for license to hold a race meet, under the provisions of this chapter shall file an application with the commission which shall set forth the time, the place, the number of days such meet will continue, and such other information as the commission may require. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue. No person who has been convicted of any crime involving moral turpitude shall be issued a license, nor shall any license be issued to any person who has violated the terms or provisions of this chapter, or any of the rules and regulations of the commission made pursuant thereto, or who has failed to pay to the commission any or all sums required under the provisions of this chapter. The license shall specify the number of days the race meet shall continue and the number of races per day, which shall be not less than six nor more than (~~ten~~) eleven, and for which a fee shall be paid daily in advance of five hundred dollars for each day for those meets which had gross receipts from parimutuel machines in excess of fifty million dollars in the previous year and two hundred dollars for each day for meets which had gross receipts from parimutuel machines at or below fifty million dollars in the previous year; in addition any newly authorized race meets shall pay two hundred dollars per day for the first year: PROVIDED, That if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee for the meet, or for a portion which cannot be held may be refunded the licensee, if the commission deems the reasons for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this chapter, or any of the rules or regulations of the commission made pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this chapter, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three days' notice, in writing, shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

Sec. 4. Section 7, chapter 55, Laws of 1933 as amended by section 1, chapter 31, Laws of 1979 and RCW 67.16.060 are each amended to read as follows:

- (1) It shall be unlawful:
 - (a) To conduct pool selling, bookmaking, or to circulate hand books; or
 - (b) To bet or wager on any horse race other than by the parimutuel method; or

(c) For any licensee to take more than the percentage provided in RCW 67.16.170; or

(d) For any licensee to compute breaks in the parimutuel system otherwise than at ~~((five))~~ ten cents.

(2) Any wilful violation of the terms of this chapter, or of any rule, regulation, or order of the commission shall constitute a gross misdemeanor and when such violation is by a person holding a license under this chapter, the commission may cancel the license held by the offender, and such cancellation shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the commission by the offender; and the action of the commission in that respect shall be final.

(3) The commission shall have power to exclude from any and all race courses of the state of Washington any person whom the commission deems detrimental to the best interests of racing or any person who wilfully violates any of the provisions of this chapter or of any rule, regulation, or order issued by the commission.

(4) Every race meet held in this state contrary to the provisions of this chapter is hereby declared to be a public nuisance.

Sec. 5. Section 4, chapter 236, Laws of 1949 as last amended by section 3, chapter 132, Laws of 1982 and RCW 67.16.090 are each amended to read as follows:

In any race meet in which quarter horses, thoroughbred horses, appaloosa horses, standard bred harness horses, paint horses, or arabian horses participate(~~((, only horses of the same breed shall be allowed to compete in any individual race))~~) horses of different breeds may be allowed to compete in the same race if such mixed races are so designated in the racing conditions.

Sec. 6. Section 1, chapter 16, Laws of 1980 and RCW 67.16.100 are each amended to read as follows:

In addition to the license fees required by this chapter, the licensee shall pay to the commission the percentages of the gross receipts of all parimutuel machines at each race meet in accordance with RCW 67.16.105, which sums shall be paid daily to the commission.

All sums paid to the commission, together with all sums collected for license fees under the provisions of this chapter, shall be disposed of by the commission as follows: Twenty-two percent thereof shall be retained by the commission for the payment of the salaries of its members, secretary, clerical, office, and other help and all expenses incurred in carrying out the provisions of this chapter. No salary, wages, expenses, or compensation of any kind shall be paid by the state in connection with the work of the commission. (~~((Of the remaining eighty percent, forty-seven))~~) Forty percent shall, on the next business day following the receipt thereof, be paid to the state treasurer to be deposited in the general fund, and three percent shall, on the

next business day following the receipt thereof, be paid to the state treasurer, who is hereby made ex officio treasurer of a fund to be known as the "state trade fair fund" which shall be maintained as a separate and independent fund, and made available to the director of commerce and economic development for the sole purpose of assisting state trade fairs. (~~The remaining~~) Thirty-five percent shall be paid to the state treasurer, who is hereby made ex officio treasurer of a fund to be known as the "fair fund," which shall be maintained as a separate and independent fund outside of the state treasury, and made available to the director of agriculture for the sole purpose of assisting fairs in the manner provided in Title 15 RCW. Any moneys collected or paid to the commission under the terms of this chapter and not expended at the close of the fiscal biennium shall be paid to the state treasurer and be placed in the general fund. The commission may, with the approval of the office of financial management, retain any sum required for working capital.

Sec. 7. Section 6, chapter 31, Laws of 1979 as amended by section 3, chapter 32, Laws of 1982 and RCW 67.16.105 are each amended to read as follows:

~~((1) For race meets which have gross receipts of all parimutuel machines averaging more than five hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily four and one-half percent of the gross receipts up to the first five hundred thousand dollars of all parimutuel machines at each race meet. All receipts in excess of five hundred thousand dollars shall be paid daily at the rate of five percent.~~

~~(2) For race meets which have gross receipts of all parimutuel machines from four hundred thousand one dollars to five hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily four percent of the gross receipts of all parimutuel machines at each race meet.~~

~~(3) For race meets which have gross receipts of all parimutuel machines from three hundred thousand one dollars to four hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily three and one-half percent of the gross receipts of all parimutuel machines at each race meet.~~

~~(4) For race meets which have gross receipts of all parimutuel machines from two hundred fifty thousand one dollars to three hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily three percent of the gross receipts of all parimutuel machines at each race meet.~~

~~(5) For race meets which have gross receipts of all parimutuel machines from two hundred thousand dollars to two hundred fifty thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily two percent of the gross receipts of all parimutuel machines at each race meet.~~

~~(6) For race meets which have gross receipts of all parimutuel machines less than two hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily one percent of the gross receipts of all the parimutuel machines at each race meet.)~~ The licensee shall pay to the commission daily for each authorized day of racing the following applicable percentage of all daily gross receipts from all parimutuel machines at each race meet:

(1) One-half percent of the daily gross receipts, if the daily gross receipts are two hundred thousand dollars or less;

(2) One percent of the daily gross receipts, if the daily gross receipts are two hundred thousand one dollars to four hundred thousand dollars; and

(3) Four percent of the daily gross receipts if the daily gross receipts are four hundred thousand one dollars or more.

Sec. 8. Section 2, chapter 94, Laws of 1969 ex. sess. as last amended by section 4, chapter 32, Laws of 1982 and RCW 67.16.130 are each amended to read as follows:

(1) Notwithstanding any other provision of law or of chapter 67.16 RCW, the commission may license race meets which are nonprofit in nature, of ten days or less, and which have an average daily handle of one hundred twenty thousand dollars or less, at a daily licensing fee of ten dollars (~~and a payment to the commission of one percent of the gross receipts of all parimutuel pools during such race meet~~), and the sponsoring nonprofit association shall be exempt from any other fees as provided for in chapter 67.16 RCW or by rule or regulation of the commission: PROVIDED. That the commission on or after January 1, 1971 may deny the application for a license to conduct a racing meet by a nonprofit association, if same shall be determined not to be a nonprofit association by the Washington state racing commission.

(2) Notwithstanding any other provision of law or of chapter 67.16 RCW the licensees of race meets which are nonprofit in nature, of ten days or less, and which have an average daily handle of one hundred twenty thousand dollars or less, shall (~~be permitted to retain fourteen percent of the gross receipts of all parimutuel pools during such race meet; except that exotic races at such meets shall be permitted to retain an additional one percent of the gross receipts of all parimutuel pools during such exotic races with the additional retained amount used for Washington bred breeder awards, not to exceed twenty percent of the winner's share of the purse. Any portion of the remainder of the one percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between racetracks and participating horsemen. As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of~~

~~the commission)) withhold and shall pay daily to the commission the percentages authorized by RCW 67.16.105, 67.16.170, and 67.16.175.~~

(3) Notwithstanding any other provision of law or of chapter 67.16 RCW or any rule promulgated by the commission, no license for a race meet which is nonprofit in nature, of ten days or less, and which has an average daily handle of one hundred twenty thousand dollars or less, shall be denied for the reason that the applicant has not installed an electric pari-mutuel tote board.

(4) As a condition to the reduction in fees as provided for in subsection (1) hereof, all fees charged to horse owners, trainers, or jockeys, or any other fee charged for a permit incident to the running of such race meet shall be retained by the commission as reimbursement for its expenses incurred in connection with the particular race meet.

Sec. 9. Section 5, chapter 31, Laws of 1979 as amended by section 1, chapter 228, Laws of 1983 and RCW 67.16.170 are each amended to read as follows:

~~((+)) Race meets which have gross receipts of all parimutuel machines ((averaging more than five hundred thousand dollars)) for each authorized day of racing may retain the following from the daily gross receipts of all parimutuel machines:~~

~~((a) From the first five hundred thousand dollars)) (1) On a daily handle of two hundred thousand dollars or less, the licensee ((may)) shall retain ((ten and one-half)) fourteen and one-half percent of such gross receipts; ((and~~

~~(b) From any amount above the first five hundred thousand dollars)) (2) On a daily handle of two hundred thousand one dollars to four hundred thousand dollars, the licensee shall retain fourteen percent of such gross receipts; and~~

~~(3) On a daily handle of four hundred thousand one dollars or more, the licensee ((may)) shall retain ((ten)) eleven percent of such gross receipts.~~

~~((2) Race meets which have gross receipts of all parimutuel machines from four hundred thousand one dollars to five hundred thousand dollars for each authorized day of racing may retain eleven percent from such gross receipts of any parimutuel machine:~~

~~(3) Race meets which have gross receipts of all parimutuel machines from three hundred thousand one dollars to four hundred thousand dollars for each authorized day of racing may retain eleven and one-half percent from such gross receipts of any parimutuel machine:~~

~~(4) Race meets which have gross receipts of all parimutuel machines from two hundred fifty thousand one dollars to three hundred thousand dollars for each authorized day of racing may retain twelve percent from such gross receipts of any parimutuel machine:~~

~~(5) Race meets which have gross receipts of all parimutuel machines from two hundred thousand dollars to two hundred fifty thousand dollars for each authorized day of racing may retain thirteen percent from such gross receipts of any parimutuel machine.~~

~~(6) Race meets which have gross receipts of all parimutuel machines less than two hundred thousand dollars for each authorized day of racing may retain fourteen percent from such gross receipts of any parimutuel machine:~~

~~(7) Of the amounts retained in subsections (1) through (6) of this section, at least one-half of one percent shall be utilized to support the general purse structure of the race meet, except that, all such increased revenue to the licensee to be utilized for purses will be in addition to and will not supplant the customary purse structure between race tracks and participating horsemen. An additional one-half of one percent shall be utilized for maintenance of the running surface, parking areas, and training and barn facilities. Any portion of the percentage for maintenance not necessary for such purposes may be utilized to support the general purse structure of the race meet.))~~

Sec. 10. Section 1, chapter 135, Laws of 1981 and RCW 67.16.175 are each amended to read as follows:

(1)(a) Of the daily gross receipts of all parimutuel machines from wagers on exotic races ~~((after May 12, 1981, an additional one))~~ two and one-half percent on races requiring two selections and three and one-half percent on races requiring three or more selections shall be retained and be forwarded to the state treasurer daily and deposited in the general fund of the state.

(b) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional ~~((two))~~ three percent of the daily gross receipts of all parimutuel machines from wagers on exotic races requiring two selections to be used as provided in subsection~~((s))~~ (2) ~~((and (3)))~~ of this section.

~~((2) Of the amounts retained under subsection (1)(b) of this section for race meets, those race meets which have gross receipts of all parimutuel machines averaging more than five hundred thousand dollars for each authorized day of racing:~~

~~(a) Fifty-six percent shall be used for Washington-bred breeder awards, not to exceed twenty percent of the winner's share of the purse.~~

~~(b) Forty-four percent, not to exceed two thousand five hundred dollars per racing day, shall be used for capital improvements, including but not limited to the running surface, parking area, and training and barn and backstretch facilities.~~

~~(c) Any portion of the remaining two percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will~~

not supplant the customary purse structure between race tracks and participating horsemen:

~~(3) Of the amounts retained in subsection (1)(b) of this section for race meets, those race meets which have gross receipts of all parimutuel machines averaging five hundred thousand dollars or less for each authorized day of racing:~~

~~(a) Forty-five percent shall be used for Washington-bred breeder awards, not to exceed twenty percent of the winner's share of the purse.~~

~~(b) Any portion of the remaining two percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between racetracks and participating horsemen.~~

~~(4) As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of the commission:)~~

(c) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional six percent of the daily gross receipts of all parimutuel machines from wagers on exotic races requiring three or more selections to be used as provided in subsection (2) of this section.

(2) Of the amounts retained in subsection (1) (b) and (c) of this section, one percent shall be used for Washington-bred breeder awards, not to exceed twenty percent of the winner's share of the purse.

(3) Any portion of the remaining moneys retained in subsection (1) (b) and (c) of this section shall be shared equally by the race track and participating horsemen. The amount shared by participating horsemen shall be in addition to and shall not supplant the customary purse structure between race tracks and participating horsemen.

(4) As used in this section, "exotic races" means any multiple wager. Exotic races are subject to approval of the commission.

Sec. 11. Section 14, chapter 2, Laws of 1983 and RCW 67.16.180 are each amended to read as follows:

~~((1) Race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races and/or Arabian races, may retain fourteen percent from the gross receipts of any parimutuel machine, except that exotic races at such meets shall be permitted to retain an additional one percent of the gross receipts of all parimutuel pools during such exotic races with the additional retained amount used for Washington-bred breeder awards, not to exceed twenty percent of the winner's share of the purse. Any portion of the remainder of the one percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not~~

~~supplant the customary purse structure between racetracks and participating horsemen. As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of the commission.~~

~~(2) For race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races and/or Arabian races, the licensee shall pay to the commission daily one percent of the gross receipts of all parimutuel machines at each race meet. Such one percent shall be paid daily.)~~

Sec. 12. Section 3, chapter 70, Laws of 1981 and RCW 67.16.190 are each amended to read as follows:

Upon written application to the commission by a licensee holding a race meet, and approval by the commission, the licensee may conduct the sale of parimutuel pools on in-state or out-of-state televised or simulcast races of ~~((the Kentucky Derby, Preakness and Belmont races))~~ national or regional interest: PROVIDED, That the sale of such parimutuel pools shall be conducted only within the enclosure of the licensee's race course and only during the conduct of a race meet in the state of Washington by said licensee.

NEW SECTION. Sec. 13. A new section is added to chapter 67.16 RCW to read as follows:

Only breeders or owners of Washington-bred horses are eligible to demand and receive a breeder's award, an owner's bonus or both. The commission shall promulgate rules and regulations to certify Washington-bred horses. In setting standards to certify horses as Washington-bred, the commission shall seek the advice of and consult with industry, including (1) the Washington Horse Breeders' Association, for thoroughbreds; (2) the Washington State Standardbred Association, for standardbred harness horses; (3) the Northern Racing Quarter Horse Association, for quarter horses; (4) the Washington State Appaloosa Racing Association, for appaloosas; and (5) the Washington State Arabian Horse Racing Association, for arabian horses.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 15. If any provisions or application of any provisions of this chapter are invalidated by a court of law, the remainder of the chapter shall not be affected.

Passed the Senate April 15, 1985.

Passed the House April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 147

[Engrossed House Bill No. 31]
MONOFILAMENT GILL NET WEBBING

AN ACT Relating to food fish and shellfish; and amending RCW 75.12.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.12.040, chapter 12, Laws of 1955 as amended by section 52, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.12.040 are each amended to read as follows:

(1) It is unlawful to use, operate, or maintain a gill net which exceeds 250 fathoms in length or a drag seine in the waters of the Columbia River for catching salmon.

(2) It is unlawful to construct, install, use, operate, or maintain within state waters a pound net, round haul net, lampara net, fish trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance for catching salmon. The director may authorize the use of this gear for scientific investigations.

~~((3) It is unlawful to fish for or take salmon within state waters with monofilament gill net webbing.))~~

(3) The department of fisheries, in coordination with the Oregon department of fish and wildlife, shall adopt rules to regulate the use of monofilament in gill net webbing on the Columbia river.

Passed the House March 1, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 148

[Engrossed House Bill No. 99]
FISH FARMING—EXCISE TAX EXEMPTION

AN ACT Relating to the taxation of fish farms; amending RCW 82.04.330 and 82.04.100; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.04.330, chapter 15, Laws of 1961 as amended by section 7, chapter 173, Laws of 1965 ex. sess. and RCW 82.04.330 are each amended to read as follows:

This chapter shall not apply to any person in respect to the business of growing or producing for sale upon ~~((his))~~ the person's own lands or upon land in which ~~((he))~~ the person has a present right of possession, any agricultural or horticultural produce or crop, including the raising for sale of any animal, bird, fish, or insect, or the milk, eggs, wool, fur, meat, honey, or

other substance obtained therefrom, or in respect to the sale of such products at wholesale by such grower, producer, or raiser thereof. This exemption shall not apply to any person selling such products at retail or using such products as ingredients in a manufacturing process; nor to the sale of any animal or substance obtained therefrom by a person in connection with ((his)) the person's business of operating a stockyard or a slaughter or packing house; nor to any person in respect to the business of taking, cultivating, or raising Christmas trees or timber; nor to any association of persons whatever, whether mutual, cooperative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this chapter. As used in this section, "fish" means fish which are cultivated or raised entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.

Sec. 2. Section 82.04.100, chapter 15, Laws of 1961 as amended by section 2, chapter 173, Laws of 1965 ex. sess. and RCW 82.04.100 are each amended to read as follows:

"Extractor" means every person who from ((his)) the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes(~~(-cultivates, or raises))~~) fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. ((ft)) "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.

NEW SECTION. Sec. 3. A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of feed to persons for use in the cultivating or raising for sale of fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.

NEW SECTION. Sec. 4. A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply in respect to the use of feed by persons for the cultivating or raising for sale of fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.

****NEW SECTION. Sec. 5. Nothing in this act shall be construed to imply that a person, sale, or use made exempt from tax under this act was taxable under Title 82 RCW prior to the enactment of this act.***

*Sec. 5 was vetoed, see message at end of chapter.

Passed the House February 15, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 25, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section, Engrossed House Bill No. 99, entitled:

"AN ACT Relating to the taxation of fish farms."

Section 5 of this bill attempts to assure that the previous sections could not be construed to imply that fish farmers were taxable as extractors for B&O taxes and liable for sales and use taxes on their feed purchases prior to the effective date of this bill.

This section would weaken the state's position if fish farmers attempted to avoid payment of back taxes by legal action.

With the exception of Section 5, Engrossed House Bill No. 99 is approved."

CHAPTER 149

[House Bill No. 271]

EMERGENCY STOPS ON LIMITED ACCESS HIGHWAYS—ASSISTANCE VANS

AN ACT Relating to assistance vans; and amending RCW 47.52.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 47.52.120, chapter 13, Laws of 1961 and RCW 47.52-.120 are each amended to read as follows:

After the opening of any limited access highway facility, it shall be unlawful for any person (1) to drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on limited access facilities; (2) to make a left turn or semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line; (3) to drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line; (4) to drive any vehicle into the limited access facility from a local service road except through an opening provided for that purpose in the dividing curb, ((σ)) dividing section, or dividing line which separates such service road from the limited access facility proper; (5) to stop or park any vehicle or equipment within the right of way of such facility, including the shoulders thereof, except at points specially provided therefor, and to make only such use of such specially provided stopping or parking points as is permitted by the designation

thereof: PROVIDED, That this subsection shall not apply to authorized emergency vehicles, law enforcement vehicles, assistance vans, or to vehicles stopped for emergency causes or equipment failures; (6) to travel to or from such facility at any point other than a point designated by the establishing authority as an approach to ~~((said))~~ the facility or to use an approach to such facility for any use in excess of that specified by the establishing authority. For the purposes of this section, an assistance van is a vehicle rendering aid free of charge to vehicles with equipment or fuel problems. The commission on equipment shall establish by rule additional standards and operating procedures, as needed, for assistance vans.

Any person who violates any of the provisions of this section ~~((shall be))~~ is guilty of a misdemeanor and upon arrest and conviction therefor shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the city or county jail for not less than five days nor more than ninety days, or by both fine and imprisonment. Nothing contained ~~((herein shall))~~ in this section prevents the highway authority from proceeding to enforce the prohibitions or limitations of access to such facilities by injunction or as otherwise provided by law.

Passed the House February 18, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 150

[Substitute House Bill No. 48]

ADVANCED LIFE SUPPORT TECHNICIANS—PUBLIC EMPLOYEES' COLLECTIVE BARGAINING COVERAGE

AN ACT Relating to life support technicians; and adding a new section to chapter 41.56 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 41.56 RCW to read as follows:

In addition to the classes of employees listed in RCW 41.56.030(6), the provisions of RCW 41.56.430 through 41.56.490 shall also be applicable to the several classes of advanced life support technicians that are defined under RCW 18.71.200, who are employed by public employers, other than public hospital districts.

Passed the House March 1, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 151

[House Bill No. 268]

INSTITUTIONAL INDUSTRIES—COMPLETE PRODUCT LINE—WORKERS
COMPENSATION

AN ACT Relating to institutional industries; amending RCW 72.09.100; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 136, Laws of 1981 as amended by section 5, chapter 255, Laws of 1983 and RCW 72.09.100 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) **CLASS I: FREE VENTURE INDUSTRIES.** The industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director of the institutional industries division. If the director finds that he cannot reasonably determine the wage, then the pay shall not be less than the federal minimum wage.

(2) **CLASS II: TAX REDUCTION INDUSTRIES.** Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations (~~which assist persons who are poor or infirm~~). The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to public agencies and to nonprofit organizations (~~which assist persons who are poor or infirm~~): **PROVIDED**, That to avoid waste or spoilage and consequent loss to the state, when there

is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations (~~which assist the poor and infirm~~). All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the federal minimum wage and which is approved by the director of institutional industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within institutional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations (~~which assist persons who are poor or infirm~~).

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the minimum wage for their work.

(5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an offender, placed on ~~((probation))~~ community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency ~~((which assists persons who are poor or infirm))~~.

The department of corrections shall reimburse participating units of local government and nonprofit agencies for workers compensation insurance costs.

NEW SECTION. Sec. 2. There is appropriated from the general fund, to the department of corrections for the biennium ending June 30, 1987, the sum of forty thousand dollars, or so much thereof as may be necessary, to provide reimbursement under section 1 (5) of this act.

Passed the House April 16, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 152

[Engrossed Substitute House Bill No. 166]

STATE COLLEGES AND UNIVERSITIES—PUBLIC BIDS AND PUBLICATION—SMALL WORKS ROSTER

AN ACT Relating to public university and college construction bids; amending RCW 28B.10.350; and adding a new section to chapter 28B.10 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 258, Laws of 1971 ex. sess. as last amended by section 1, chapter 12, Laws of 1979 ex. sess. and RCW 28B.10.350 are each amended to read as follows:

(1) When the cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition other than ~~((ordinary))~~ maintenance or ~~((equipment))~~ repairs will equal or exceed the sum of ~~((seventeen))~~ twenty-five thousand ~~((five-hundred))~~ dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when the estimated cost of such building, construction, renovation, remodeling, or demolition equals or

exceeds the sum of ~~((seventeen))~~ twenty-five thousand ~~((five-hundred))~~ dollars, such project shall be deemed a public works and "the prevailing rate of wage," under chapter 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications(~~(:PROVIDED FURTHER, That any project regardless of dollar amount may be put to public bid)~~). This subsection shall not apply when a contract is awarded by the small works procedure authorized in section 2 of this 1985 act.

(2) The Evergreen State College, any regional university, or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section.

(3) Where the estimated cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition is less than ~~((seventeen))~~ twenty-five thousand ~~((five-hundred))~~ dollars or the contract is awarded by the small works procedure authorized in section 2 of this 1985 act, the publication requirements of RCW 39.04.020 and 39.04.090 shall be inapplicable.

(4) In the event of any emergency when the public interest or property of The Evergreen State College, regional university, or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of such college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW to read as follows:

Each board of regents of the state universities and each board of trustees of the regional universities and The Evergreen State College may establish a small works roster. The small works roster authorized by this section may be used for any public works project for which the estimated cost is less than fifty thousand dollars. Each board shall adopt rules to implement this section.

The roster shall be composed of all responsible contractors who have requested to be on the list. Each board shall establish a procedure for securing telephone or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding

contracts to the lowest responsible bidder. This procedure shall require either that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted or that the board shall solicit quotations from at least five contractors in a manner that will equitably distribute the opportunity among contractors on the roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection and available by telephone inquiry. Each board may adopt a procedure to prequalify contractors for inclusion on the small works roster. No board may be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the state. Responsible contractors shall be added to the list at any time they submit a written request.

Passed the House April 12, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 153

[Substitute House Bill No. 194]

WATER OR SEWER DISTRICTS—WITHDRAWAL OF TERRITORY— ALTERNATIVE PROCEDURE

AN ACT Relating to procedures for commencing withdrawal of territory from a water district or sewer district; adding a new section to chapter 56.28 RCW; and adding a new section to chapter 57.28 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 57.28 RCW to read as follows:

As an alternative procedure to those set forth in RCW 57.28.010 through 57.28.030, the withdrawal of territory within a water district may be commenced by a resolution of the board of commissioners that sets forth boundaries of the territory to be withdrawn and sets a date for the public hearing required under RCW 57.28.050. Upon the final hearing, the commissioners shall make such changes in the proposed boundaries as they deem proper, except that no changes in the boundary lines may be made by the commissioners to include lands not within the boundaries of the territory as described in such resolution.

Whenever the board of commissioners proposes to commence the withdrawal of any portion of their territory located within a city or town using the alternative procedures herein authorized, they shall first notify such city

or town of their intent to withdraw said territory. If the legislative authority of the city or town takes no action within sixty days of receipt of notification, the district may proceed with the resolution method.

If the city or town legislative authority disapproves of use of the alternative procedures, the board of commissioners may proceed using the process established pursuant to RCW 57.28.010 through 57.28.030.

A withdrawal procedure commenced under this section shall be subject to the procedures and requirements set forth in RCW 57.28.040 through 57.28.110.

NEW SECTION. Sec. 2. A new section is added to chapter 56.28 RCW to read as follows:

As an alternative procedure to that set forth in RCW 56.28.010, the withdrawal of territory within a sewer district may be commenced by a resolution of the board of commissioners that sets forth boundaries of the territory to be withdrawn and sets a date for the public hearing required under RCW 57.28.050. Upon the final hearing, the commissioners shall make such changes in the proposed boundaries as they deem proper, except that no changes in the boundary lines may be made by the commissioners to include lands not within the boundaries of the territory as described in such resolution.

Whenever the board of commissioners proposes to commence the withdrawal of any portion of their territory located within a city or town using the alternative procedures herein authorized, they shall first notify such city or town of their intent to withdraw said territory. If the legislative authority of the city or town takes no action within sixty days of receipt of notification, the district may proceed with the resolution method.

If the city or town legislative authority disapproves of use of the alternative procedures, the board of commissioners may proceed using the process established pursuant to RCW 56.28.010.

A withdrawal procedure commenced under this section shall be subject to the procedures and requirements set forth in RCW 57.28.040 through 57.28.110.

Passed the House March 8, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 154

[House Bill No. 250]

WATER OR SEWER DISTRICTS—SMALL WORKS ROSTER—ANNUAL REVISION

AN ACT Relating to water and sewer districts; and amending RCW 56.08.070 and 57.08.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 44, chapter 210, Laws of 1941 as last amended by section 1, chapter 38, Laws of 1983 and RCW 56.08.070 are each amended to read as follows:

(1) All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars shall be let by contract. All contract projects, the estimated cost of which is less than twenty-five thousand dollars, may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of sewer commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. The board of sewer commissioners shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised ~~((every six months))~~ once a year. All contract projects equal to or in excess of twenty-five thousand dollars shall be let by competitive bidding. Before awarding any competitive contract the board of sewer commissioners shall cause a notice to be published in a newspaper in general circulation where the district is located at least once, ten days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of sewer commissioners subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of sewer commissioners on or before the day and hour named therein.

(2) Each bid shall be accompanied by a bid proposal deposit in the form of a certified check, cashier's check, postal money order, or surety bond payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid and no bid shall be considered unless accompanied by such bid proposal deposit. At the time and place named such bids shall be publicly opened and read and the board of sewer commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications: PROVIDED, That no contract shall be let in excess of the cost of said materials or work, or if in the opinion of the board of sewer commissioners all bids are unsatisfactory they may reject all of them and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If such contract be let, then all checks, cash or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract

shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the board of sewer commissioners in the full amount of the contract price between the bidder and the commission in accordance with bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the said check, cash or bid bonds and the amount thereof shall be forfeited to the sewer district.

(3) In the event of an emergency when the public interest or property of the sewer district would suffer material injury or damage by delay, upon resolution of the board of sewer commissioners, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board, or the official acting for the board, may waive the requirements of this chapter with reference to any purchase or contract.

Sec. 2. Section 21, chapter 114, Laws of 1929 as last amended by section 2, chapter 38, Laws of 1983 and RCW 57.08.050 are each amended to read as follows:

(1) The board of water commissioners shall have authority to create and fill such positions and fix salaries and bonds thereof as it may by resolution provide.

(2) All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars shall be let by contract. All contract projects, the estimated cost of which is less than twenty-five thousand dollars, may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of water commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. The board of water commissioners shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised (~~every six months~~) once a year. All contract projects equal to or in excess of twenty-five thousand dollars shall be let by competitive bidding. Before awarding any such contract the board of water commissioners shall cause a notice to be published in a newspaper in general circulation where the district is located at least once ten days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of water commissioners subject to public inspection. Such notice shall

state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of water commissioners on or before the day and hour named therein.

(3) Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless he enters into a contract in accordance with his bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of water commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting his own plans and specifications: **PROVIDED**, That no contract shall be let in excess of the cost of said materials or work, or if in the opinion of the board of water commissioners all bids are unsatisfactory they may reject all of them and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If such contract be let, then all checks, cash or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the board of water commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the said check, cash or bid bonds and the amount thereof shall be forfeited to the water district: **PROVIDED**, That if the bidder fails to enter into a contract in accordance with his bid, and the board of water commissioners deems it necessary to take legal action to collect on any bid bond required herein, then the water district shall be entitled to collect from said bidder any legal expenses, including reasonable attorneys' fees occasioned thereby.

(4) In the event of an emergency when the public interest or property of the water district would suffer material injury or damage by delay, upon resolution of the board of water commissioners, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting

the same, the board, or official acting for the board, may waive the requirements of this chapter with reference to any purchase or contract.

Passed the House March 8, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 155

[Substitute House Bill No. 127]

WILDLIFE AGENTS AND FISHERIES PATROL OFFICERS—LAW ENFORCEMENT AUTHORITY

AN ACT Relating to law enforcement by wildlife agents and fisheries patrol officers; and amending RCW 75.10.010 and 77.12.055.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.08.150, chapter 12, Laws of 1955 as last amended by section 32, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.10.010 are each amended to read as follows:

(1) Fisheries patrol officers and ex officio fisheries patrol officers within their respective jurisdictions, shall enforce this title, rules of the director, and other statutes as prescribed by the legislature.

(2) When acting within the scope of subsection (1) of this section and when an offense occurs in the presence of the fisheries patrol officer who is not an ex officio fisheries patrol officer, the fisheries patrol officer may enforce all criminal laws of the state. The fisheries patrol officer must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a supplemental course in criminal law enforcement as approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(3) Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by a fisheries patrol officer rests with the department of fisheries unless the fisheries patrol officer acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of fisheries and another agency.

(4) Fisheries patrol officers may serve and execute warrants and processes issued by the courts.

Sec. 2. Section 17, chapter 78, Laws of 1980 and RCW 77.12.055 are each amended to read as follows:

(1) Jurisdiction and authority granted under RCW 77.12.060, 77.12.070, and 77.12.080 to the director, wildlife agents, and ex officio wildlife

agents is limited to the laws and rules of the commission pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department and other statutes as prescribed by the legislature. However, when acting within the scope of these duties and when an offense occurs in the presence of the wildlife agent who is not an ex officio wildlife agent, the wildlife agent may enforce all criminal laws of the state. The wildlife agent must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a supplemental course in criminal law enforcement as approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(2) Wildlife agents are peace officers.

(3) Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by a wildlife agent rests with the department of game unless the wildlife agent acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of game and another agency.

(4) Wildlife agents may serve and execute warrants and processes issued by the courts.

Passed the House March 13, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 156

[Substitute House Bill No. 155]

NOTARIES PUBLIC

AN ACT Relating to notaries public; amending RCW 43.07.035; adding a new chapter to Title 42 RCW; creating new sections; repealing RCW 42.28.010, 42.28.020, 42.28.030, 42.28.035, 42.28.040, 42.28.050, 42.28.060, 42.28.070, 42.28.090, 42.28.100, 42.28.110, 42.28.120, 42.28.130, 43.06.100, 43.131.299, and 43.131.300; providing an effective date; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Director" means the director of licensing of the state of Washington or the director's designee.

(2) "Notarial act" and "notarization" mean: (a) Taking an acknowledgment; (b) administering an oath or affirmation; (c) taking a verification upon oath or affirmation; (d) witnessing or attesting a signature; (e) certifying or attesting a copy; (f) receiving a protest of a negotiable instrument;

(g) certifying that an event has occurred or an act has been performed; and
 (h) any other act that a notary public of this state is authorized to perform.

(3) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(4) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(5) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

(6) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(b) As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) As an attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(7) "Serious crime" means any felony or any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy, or the solicitation of another to commit a serious crime.

NEW SECTION. Sec. 2. (1) The director may, upon application, appoint to be a notary public in this state, any person who:

(a) Is at least eighteen years of age;

(b) Resides in Washington state, or resides in an adjoining state and is regularly employed in Washington state or carries on business in Washington state; and

(c) Can read and write English.

(2) Each application shall be accompanied by endorsements by at least three residents of this state of the age of eighteen or more, who are not relatives of the applicant, in the following form:

I, (name of endorser) , being a person eligible to vote in the state of Washington, believe the applicant for a notary public appointment, (applicant's name) , who is not related to me, to be a person of integrity and good moral character and capable of performing notarial acts.

(Endorser's signature and address, with date of signing)

certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate shall bear a printed seal of the state of Washington.

NEW SECTION. Sec. 5. Every person appointed as a notary public in this state shall procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington," the date the appointment expires, the person's surname, and at least the initials of the person's first and middle names. The director shall prescribe by rule the size and form or forms of the seal or stamp. It is unlawful for any person intentionally to manufacture, give, sell, procure or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has delivered a certificate evidencing the appointment as provided for in section 4 of this 1985 act.

NEW SECTION. Sec. 6. A person appointed as a notary public by the director may perform notarial acts in this state for a term of four years, unless:

- (1) The notarial appointment has been revoked under section 13 or 14 of this act; or
- (2) The notarial appointment has been resigned.

NEW SECTION. Sec. 7. A person who has received an appointment as a notary public may be reappointed without the endorsements required in section 2(2) of this act if the person submits a new application before the expiration date of the current appointment.

NEW SECTION. Sec. 8. A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

(1) In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgment is the person whose true signature is on the document.

(2) In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.

(4) In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(5) In making or noting a protest of a negotiable instrument, a notary public must determine the matters set forth in RCW 62A.3-509.

(6) In certifying that an event has occurred or an act has been performed, a notary public must determine the occurrence or performance either from personal knowledge or from satisfactory evidence based upon the oath or affirmation of a credible witness personally known to the notary public.

(7) A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.

(8) The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public.

(9) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized.

NEW SECTION. Sec. 9. (1) A notarial act by a notary public must be evidenced by a certificate signed and dated by a notary public. The certificate must include the name of the jurisdiction in which the notarial act is performed and the title of the notary public or other notarial officer and shall be accompanied by an impression of the official seal or stamp. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of the official seal or stamp. If the notarial officer is a notary public, the certificate shall also indicate the date of expiration of such notary public's appointment, but omission of that information may subsequently be corrected.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

(a) Is in the short form set forth in section 10 of this act;

(b) Is in a form otherwise permitted or prescribed by the laws of this state;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Is in a form that sets forth the actions of the notary public and the described actions are sufficient to meet the requirements of the designated notarial act.

If any law of this state specifically requires a certificate in a form other than that set forth in section 10 of this act in connection with a form of document or transaction, the certificate required by such law shall be used for such document or transaction.

(3) By executing a certificate of a notarial act, the notary public certifies that he or she has made the determinations required by section 8 of this act.

(4) A notary public's seal or stamp shall be the exclusive property of the notary public, shall not be used by any other person, and shall not be

surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

NEW SECTION. Sec. 10. The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

(1) For an acknowledgment in an individual capacity:

State of Washington

County of _____

I certify that I know or have satisfactory evidence that _____ (name of person) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature of notary public)

(Seal or stamp)

Title
My appointment expires _____

(2) For an acknowledgment in a representative capacity:

State of Washington

County of _____

I certify that I know or have satisfactory evidence that _____ (name of person) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ (type of authority, e.g., officer, trustee, etc.) of _____ (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature of notary public)

(Seal or stamp)

Title
My appointment expires _____

(3) For a verification upon oath or affirmation:

State of Washington

County of _____

Signed and sworn to (or affirmed) before me on (date) by
 (name of person making statement) .

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(4) For witnessing or attesting a signature:

State of Washington
County of _____

Signed or attested before me on _____ by _____.

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(5) For attestation of a copy of a document:

State of Washington
County of _____

I certify that this is a true and correct copy of a document in the possession of _____ as of this date.

Dated: _____

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington
County of _____

I certify that the event or act described in this document has occurred or been performed.

(Seal or stamp)

(Signature of notary public)

 Title _____

My appointment expires _____

NEW SECTION. Sec. 11. The illegibility of any wording, writing, or marking required under this chapter does not in and of itself affect the validity of a document or transaction.

NEW SECTION. Sec. 12. (1) The director shall establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

NEW SECTION. Sec. 13. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

(a) A notary public of that jurisdiction;

(b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or

(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 14 of this act have the same effect as if performed by a notarial officer of this state.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1) (a) and (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

NEW SECTION. Sec. 14. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed by any of the following persons under authority granted by the law of the United States:

(a) A judge, clerk, or deputy clerk of a court;

(b) A commissioned officer in active service with the military forces of the United States;

(c) An officer of the foreign service or consular agent of the United States; or

(d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title or rank of an officer listed in subsection (1) (a), (b), and (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

NEW SECTION. Sec. 15. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

(a) A notary public or notary;
(b) A judge, clerk, or deputy clerk of a court of record; or
(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, is prima facie evidence of the authenticity or validity of the notarial act set forth in the certificate.

(4) A stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds that designated title.

(5) A stamp or seal of an officer listed in subsection (1) (a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of officer and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

NEW SECTION. Sec. 16. (1) A notary public commits official misconduct when he or she signs a certificate evidencing a notarial act, knowing that the contents of the certificate are false.

(2) A notary public who commits an act of official misconduct shall be guilty of a gross misdemeanor.

(3) Any person not appointed as a notary public who acts as or otherwise impersonates a notary public shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 17. (1) The director may revoke the appointment of any notary public for any reason for which appointment may be denied under section 3 of this act.

(2) The director shall revoke the appointment of a notary public upon a judicial finding of incompetency of the notary public. If a notary public is found to be incompetent, his or her guardian or conservator shall within

thirty days of such finding mail or deliver to the director a letter of resignation on behalf of the notary public.

(3) A notary public may voluntarily resign by mailing or delivering to the director a letter of resignation.

NEW SECTION. Sec. 18. (1) The authenticity of the notarial seal and official signature of a notary public of this state may be evidenced by:

(a) A certificate of authority from the director or the secretary of state; or

(b) An apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(2) An apostille as specified by the Hague Convention shall be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

Sec. 19. Section 190, chapter 35, Laws of 1982 and RCW 43.07.035 are each amended to read as follows:

The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state (~~or under chapter 42.28 RCW~~).

NEW SECTION. Sec. 20. On or before January 1, 1986, the director shall adopt rules to carry out this act. Such rules shall include but shall not be limited to rules concerning applications for appointment, application and renewal fees, fees chargeable for notarial services, the replacement of lost or stolen seals or stamps, changes of names or addresses of notaries, resignations of notaries, appeals of denials and revocations of appointments, and issuance of evidences of authenticity of notarial seals and signatures.

NEW SECTION. Sec. 21. Nothing in this act may be interpreted to revoke any notary public appointment or commission existing on the effective date of this act. This act does not terminate, or in any way modify, any liability, civil or criminal, which exists on the effective date of this act. A notarial act performed before the effective date of this act is not affected by this act.

NEW SECTION. Sec. 22. Records relating to the appointment and commissioning of notaries public that are in the custody of county clerks of this state on the effective date of this act shall be transferred to the director of licensing on or before December 31, 1985. Such records may be archived by the director.

NEW SECTION. Sec. 23. Sections 1, 8, 9, 10, 13, 14, and 15 of this act shall be applied and construed to effectuate their general purpose to

make the law uniform with respect to the subject of this act among states enacting such sections of this act.

NEW SECTION. Sec. 24. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 25. Sections 1 through 18, and 23 of this act shall constitute a new chapter in Title 42 RCW entitled "Notaries Public."

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 1, page 473, Laws of 1890, section 1, chapter 137, Laws of 1907, section 1, chapter 6, Laws of 1937 and RCW 42.28.010;

(2) Section 1, page 52, Laws of 1862, section 1, page 501, Laws of 1863, section 1, page 375, Laws of 1869, section 3, page 467, Laws of 1873, section 2615, Code of 1881, section 2, page 473, Laws of 1890 and RCW 42.28.020;

(3) Section 3, page 473, Laws of 1890, section 1, chapter 85, Laws of 1975 1st ex. sess., section 1, chapter 314, Laws of 1981 and RCW 42.28-.030;

(4) Section 5, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28-.035;

(5) Section 4, page 474, Laws of 1890 and RCW 42.28.040;

(6) Section 1, chapter 32, Laws of 1913 and RCW 42.28.050;

(7) Section 5, page 474, Laws of 1890, section 2, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.060;

(8) Section 6, page 474, Laws of 1890, section 3, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.070;

(9) Section 1, chapter 56, Laws of 1907, section 7, chapter 51, Laws of 1951, section 4, chapter 85, Laws of 1975 1st ex. sess., section 1, chapter 214, Laws of 1983 and RCW 42.28.090;

(10) Section 10, page 255, Laws of 1877, section 2623, Code of 1881, section 9, page 475, Laws of 1890 and RCW 42.28.100;

(11) Section 10, page 476, Laws of 1890, section 1, chapter 97, Laws of 1943 and RCW 42.28.110;

(12) Section 1, page 90, Laws of 1890, section 1, page 91, Laws of 1890 and RCW 42.28.120;

(13) Section 2, page 90, Laws of 1890 and RCW 42.28.130;

(14) Section 43.06.100, chapter 8, Laws of 1965 and RCW 43.06.100;

(15) Section 23, chapter 197, Laws of 1983 and RCW 43.131.299; and

(16) Section 49, chapter 197, Laws of 1983 and RCW 43.131.300.

NEW SECTION. Sec. 27. Sections 1 through 19, 21, and 23 through 26 shall take effect on January 1, 1986.

Passed the House April 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 157

[House Bill No. 156]

MOTOR VEHICLES—PROOF OF FINANCIAL RESPONSIBILITY—LAPSE—
RESUSPEND OR REREVOKE DRIVING PRIVILEGE

AN ACT Relating to motor vehicle financial responsibility; and amending RCW 46.29.280.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28, chapter 169, Laws of 1963 as amended by section 64, chapter 136, Laws of 1979 ex. sess. and RCW 46.29.280 are each amended to read as follows:

Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. Upon receiving notice of the termination or cancellation of proof of financial responsibility for the future, the department shall resuspend or rerevoke the person's driving privilege until the person again gives and thereafter maintains proof of financial responsibility for the future.

Passed the House February 27, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 158

[Engrossed House Bill No. 1021]

PESTICIDE CONTROL ACT—VIOLATIONS—CIVIL PENALTIES AND
ENFORCEMENT

AN ACT Relating to enforcement of pesticide control; amending RCW 15.58.260 and 17.21.050; adding a new section to chapter 15.58 RCW; adding a new section to chapter 17.21 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 15.58 RCW to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty herein provided.

Sec. 2. Section 26, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.260 are each amended to read as follows:

The director is authorized to impose a civil penalty and/or deny, suspend, or revoke any license, registration or permit provided for in this chapter subject to a hearing and in conformance with the provisions of chapter 34.04 RCW (Administrative Procedure Act) in any case in which ((he)) the director finds there has been a failure or refusal to comply with the provisions of this chapter or ((regulations)) rules adopted hereunder.

NEW SECTION. Sec. 3. A new section is added to chapter 17.21 RCW to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty herein provided.

Sec. 4. Section 5, chapter 249, Laws of 1961 and RCW 17.21.050 are each amended to read as follows:

All hearings for the imposition of a civil penalty and/or the suspension, denial or revocation of a license issued under the provisions of this chapter shall be subject to the provisions of chapter 34.04 RCW as enacted or hereafter amended. concerning contested cases.

Passed the House March 14, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 159

[Engrossed Substitute House Bill No. 1234]

AGRICULTURAL MARKETING—DEPARTMENT OF AGRICULTURE—
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT—DUTIES

AN ACT Relating to agricultural marketing; amending RCW 43.31.370; adding new sections to chapter 43.23 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts.

Sec. 2. Section 4, chapter 221, Laws of 1967 as amended by section 9, chapter 175, Laws of 1984 and RCW 43.31.370 are each amended to read as follows:

The department of commerce and economic development through the office of international trade is hereby designated the agency of state government for the promotion and development of international trade of products other than agricultural commodities and goods and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various ((agricultural;)) natural resource(;) and manufacturing commodities of this state in international trade;

(2) To collect, prepare, and analyze international and domestic market data;

(3) To maintain close contact with international firms and governmental agencies and to act as an effective intermediary between nations other than the United States and Washington traders;

(4) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of RCW 43.31.040 and 43.31.350 through 43.31.370;

(5) To encourage and promote the movement of international and domestic goods through the ports of Washington;

(6) To conduct an active program by sending representatives to, or engaging representatives in, other nations to promote the state as an international trade center;

(7) To assist and to make Washington ((agricultural;)) natural resource(;) and manufacturing concerns more aware of the potentials of international trade and to encourage production of those ((commodities)) products which will have high export potentials and appeal;

(8) To administer state participation in state or international trade fairs;

(9) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations;

(10) To administer the honorary commercial attache program established under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 43.23 RCW to read as follows:

The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(4) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

(5) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(6) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(7) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(8) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(9) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(10) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(11) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(12) To develop a coordinated marketing program with the department of commerce and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming.

****NEW SECTION. Sec. 4. A new section is added to chapter 43.23 RCW to read as follows:***

(1) There is hereby created the agricultural market development advisory committee. The advisory committee shall consist of twelve members appointed by the governor as follows: Two persons selected by a vote of the existing agricultural commodity commissions, one person representing fresh food shippers, two persons representing growers of commodities not presently represented by agricultural commodity commissions, one person representing agricultural cooperatives, one person representing processors of agricultural products, one person representing food products brokers, one person representing transportation, two persons representing agriculture at large and selected from names submitted by established agricultural organizations, and one person representing agricultural trade finance. The following persons shall serve as ex officio members of the committee: The chairman and ranking minority member of the agriculture committee of the state house of representatives and the chairman and ranking minority member of the agriculture committee of the state senate. The following persons shall serve as nonvoting ex officio members of the committee: The director of agriculture; the director of commerce and economic development; and the dean of the college of agriculture and home economics at Washington State University.

(2) The committee shall advise the director of agriculture, the director of commerce and economic development, and the dean of the college of agriculture and home economics on: The development, administration, and revision of agricultural marketing programs and activities conducted by the department of agriculture under section 3 of this act; the policies, programs, and activities of the IMPACT center, and the general assistance to be provided by the department of commerce and economic development for the agricultural marketing programs and activities of the department of agriculture and the IMPACT center.

(3) Members of the committee appointed by the governor shall receive compensation in the amount provided under RCW 43.03.230 for each day spent in attendance at or in traveling to and from meetings of the committee, or on special assignment for the committee, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. Legislative members of the committee shall receive compensation in accordance with chapter 44.04 RCW.

(4) Of the initial members of the committee appointed by the governor, three shall serve for two years as determined by the governor with terms commencing on July 1, 1985. All other terms of persons who are not ex officio members shall be for four years.

The chairperson is to be selected by a vote of the members of the committee and shall serve for a period of two years commencing on July 1st of odd-numbered years.

The committee shall meet at least twice per year and shall meet additional times upon the call of the chairperson.

(5) The funding of the advisory committee shall be shared equally by the department of agriculture and the IMPACT center, and paid from the appropriations made by the legislature to carry out the department's agricultural market development programs, and the IMPACT center's research responsibilities.

*Sec. 4 was vetoed, see message at end of chapter.

Passed the House March 19, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 25, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section, Engrossed Substitute House Bill No. 1234, entitled:

"AN ACT Relating to agricultural marketing."

This bill designates the Department of Agriculture as the agency of state government for the administration and implementation of state domestic and foreign agricultural market development activities.

Section 4 of the bill would create an agricultural market development advisory committee. Members of the committee would be appointed by the Governor and advise the director of the Department of Agriculture on the development and administration of agricultural marketing programs to be conducted by the department.

I believe that the idea of having strong private sector involvement in state government agricultural marketing activities is good public policy. Business background and experience would strengthen program implementation and help to ensure successful operations. However, I also believe that it would be more efficient for the director of the Department of Agriculture to organize such advisory committees and appoint the members directly. The Director already has the authority to appoint advisory committees, when necessary, and can proceed as intended by this legislation.

With the exception of Section 4, Engrossed Substitute House Bill No. 1234 is approved."

CHAPTER 160

[Substitute House Bill No. 1044]

IRRIGATION DISTRICTS—PLATS—IRRIGATION REQUIREMENTS

AN ACT Relating to plats within irrigation districts; and amending RCW 58.17.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 150, Laws of 1973 and RCW 58.17.310 are each amended to read as follows:

In addition to any other requirements imposed by the provisions of this chapter, the legislative authority of any city, town, or county shall not approve a short plat or final plat, as defined in RCW 58.17.020, for any subdivision, short subdivision, lot, tract, parcel, or site which lies in whole or in part in an irrigation district organized pursuant to chapter 87.03 RCW unless there has been provided an irrigation water right of way for each parcel of land in such district and ((such)), if the subdivision, short subdivision, lot, tract, parcel, or site lies within land classified as irrigable, it contains completed irrigation water distribution facilities. Facilities shall be installed in the same manner and time as other utilities according to standards and ordinances of the local jurisdiction. The irrigation district shall provide the local legislative authority with suggested specifications for approved irrigation facilities. The irrigation district shall also suggest to the local legislative authority or appropriate planning agency the irrigation facilities that should be required as a condition for approving such a short plat or plat. Rights of way shall be evidenced by the respective plats submitted for final approval to the appropriate legislative authority. Compliance with the requirements of this section together with all other applicable provisions of this chapter shall be a prerequisite, within the expressed purpose of this chapter, to any sale, lease, or development of land in this state.

Passed the House March 21, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 161

[Substitute House Bill No. 303]

WATER COMPANIES—UTILITIES AND TRANSPORTATION COMMISSION
JURISDICTION

AN ACT Relating to public utilities regulations; and amending RCW 80.04.010 and 80.04.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 80.04.010, chapter 14, Laws of 1961 as last amended by section 10, chapter 191, Laws of 1979 ex. sess. and RCW 80.04.010 are each amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or copartnership.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

"Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

"Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

"Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company,

state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

"Telephone company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

"Telephone line" includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

"Telegraph company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

"Telegraph line" includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

"Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

"Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: PROVIDED, That for purposes of commission jurisdiction it shall not include any water system serving less than ((sixty)) one hundred customers where the average annual gross revenue per customer does not exceed ((one hundred twenty)) three hundred dollars per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.04 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce: AND PROVIDED FURTHER, That such measurement of customers or revenues

shall include all portions of water companies having common ownership, regardless of location or corporate designation. However, water companies exempt from commission regulation shall be subject to the provisions of chapter 19.86 RCW.

"Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

"Public service company" includes every gas company, electrical company, telephone company, telegraph company and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

The term "service" is used in this title in its broadest and most inclusive sense.

Sec. 2. Section 80.04.130, chapter 14, Laws of 1961 as amended by section 2, chapter 3, Laws of 1984 and RCW 80.04.130 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

The commission may suspend the initial tariff filing of any water company removed from and later subject to commission jurisdiction because of the number of customers or the average annual gross revenue per customer provisions of RCW 80.04.010. The commission may allow temporary rates during the suspension period. These rates shall not exceed the rates charged when the company was last regulated. Upon a showing of good cause by the company, the commission may establish a different level of temporary rates.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) The implementation of mandatory local measured telephone service is a major policy change in available telephone service. The commission

shall not approve, prior to June 1, 1985, any filings which are under suspension as of February 16, 1984, which are awaiting an order by the commission, or which are filed on or after February 16, 1984, if the filing involuntarily requires any telephone user to pay for all outgoing local telephone calls based on time and/or distance. As to any such filing, the requirements in subsection (1) of this section for the commission to act on that filing within ten months from the date the filing would otherwise go into effect are suspended under this subsection from February 16, 1984, until June 1, 1985. This subsection shall not apply to any service such as land, marine, or air mobile service, or any like service that has traditionally been offered on a measured-service basis.

Passed the House April 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 162

[Second Substitute House Bill No. 428]

REAL ESTATE LICENSES

AN ACT Relating to real estate licenses; and amending RCW 18.85.090, 18.85.095, 18.85.140, and 18.85.215.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15, chapter 252, Laws of 1941 as last amended by section 8, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.090 are each amended to read as follows:

The commission shall be responsible for the preparation of the examination to be submitted to applicants, and shall make and file with the director a list, which may be signed by a majority of the members of the commission conducting the examination, of all applicants who successfully passed the examination and of those who failed.

Any applicant who fails to pass the examination may apply again.

No applicant shall be permitted to take the examination for a real estate broker's license without first satisfying the director that ~~((he))~~ the applicant:

(1) Has had a minimum of two years of actual experience as a full time real estate salesman in this state or in another state having comparable requirements within the five years previous to applying for said examination or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified, by reason of practical experience in a business allied with or related to real estate;

(2) Is eighteen years of age or older;

(3) Has a high school diploma or its equivalent;

(4) Has furnished proof, as the director may require, that ~~((he))~~ the applicant has completed successfully ninety clock hours of instruction in real estate. Instruction must include one course in brokerage management and one course in real estate law. Each course must be at least thirty clock hours. Courses must be completed within five years prior to applying for the examination.

The requirements of subsections (1) through (4) of this section shall not apply to persons who are licensed as brokers under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked: PROVIDED, That requirements for brokers created by this 1972 amendatory act shall apply to any person who is licensed as a salesman on or before ~~((the effective date of this 1972 amendatory act))~~ May 23, 1972, if such person shall apply to become a broker or associate broker after ~~((this 1972 amendatory act is in effect))~~ May 23, 1972.

Sec. 2. Section 7, chapter 139, Laws of 1972 ex. sess. as amended by section 2, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.095 are each amended to read as follows:

It is hereby established that the minimum requirements for an individual to receive a salesman's license are that the individual:

- (1) Is eighteen years of age or older;
- (2) Is a resident of the state of Washington; ~~((and))~~
- (3) Has passed a salesman's examination; and
- (4) Has successfully completed a thirty clock hour course in real estate fundamentals prior to obtaining a first real estate license.

No licensed salesman shall have his license renewed a second time unless he or she furnishes proof, as the director may require, that he or she has successfully completed an additional thirty clock hours of instruction in real estate courses approved by the director.

Nothing in this section shall apply to persons who are licensed as salesmen under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked.

**Sec. 3. Section 2, chapter 25, Laws of 1979 and RCW 18.85.140 are each amended to read as follows:*

Before receiving his license every real estate broker must pay a license fee of forty dollars, every associate real estate broker must pay a license fee of forty dollars, and every real estate salesman must pay a license fee of twenty-five dollars. Every license issued under the provisions of this chapter expires on the applicant's birthday following issuance of the license which date will henceforth be the renewal date. Licenses issued to corporations and partnerships expire December 31st, which date will henceforth be their renewal date. On or before the renewal date an annual renewal license fee in the same amount must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, the renewal license fee shall be fifty-five dollars for a real estate broker and associate real estate broker and thirty-five dollars for a real estate salesman. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedures and qualifications for initial licensing, including the successful completion of any applicable examinations. If the department fails to receive a license renewal fee within eleven months after the date of expiration, the director shall mail a notice warning of the impending cancellation to the person holding the license.

The director shall issue to each active licensee a license and a pocket identification card in such form and size as he shall prescribe.

*Sec. 3 was vetoed, see message at end of chapter.

Sec. 4. Section 8, chapter 370, Laws of 1977 ex. sess. and RCW 18-85.215 are each amended to read as follows:

(1) Any license issued under this chapter and not otherwise revoked shall be deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be renewed on the same terms and conditions as an active license, and failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto. If a holder has an inactive license for more than three years, the holder must show proof of successfully completing a thirty clock hour course in real estate within one year prior to the application for active status.

~~((3))~~ (4) The provisions of this chapter relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

Passed the House March 8, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 25, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one provision, Second Substitute House Bill No. 428, entitled:

"AN ACT Relating to real estate licenses."

This bill requires that sales persons and brokers complete a prescribed number of hours of instruction in order to obtain, renew or reinstate their real estate licenses. In addition, in Section 3 of the bill, the Department of Licensing would be required to mail a warning notice of impending cancellation of a license if the department does not receive the renewal fee from a license holder within eleven months after the license expiration date.

I have vetoed Section 3 of the bill because it is more correctly the license holder's responsibility, and not the department's, to complete a timely renewal of the license. There are already sufficient reminders: renewal notices are mailed to the last known address of the licensee sixty days before the due date; real estate brokers are charged by law to employ only currently licensed persons; real estate auditors check the current status of licensees during audits; each licensee's renewal date is fixed on his or her birthday; and, reminders are published quarterly in the Real Estate News.

With the exception of Section 3, Second Substitute House Bill No. 428 is approved."

CHAPTER 163

[Substitute House Bill No. 958]

STATE PARKS AND RECREATION COMMISSION—PARK LAND TRUST TRANSFERS

AN ACT Relating to island trust land transfers; amending RCW 43.51.270 and 43.51.280; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 210, Laws of 1971 ex. sess. as last amended by section 1, chapter 271, Laws of 1981 and RCW 43.51.270 are each amended to read as follows:

(1) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of the trust lands withdrawn as of August 9, 1971 pursuant to law for park purposes and included within the state parks listed in subsection (2) of this section: PROVIDED, That the sale shall be by contract with a pay-off period of not less than ten years, a price of eleven million twenty-four thousand seven hundred forty dollars or the fair market value, whichever is higher, for the land value, and interest not to exceed six percent. All fees collected by the commission beginning in the 1973-1975 biennium shall be applied to the purchase price of the trust lands listed in subsection (2) of this section; the acquisition of the ((Heart Lake)) property described in subsection (3) of this section, and all reasonable costs of acquisition, described in subsection ((3))(4) of this section; the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks; the maintenance and operation of state parks; and any cost of collection pursuant to appropriations from the trust land purchase account created in RCW 43.51.280. The department of natural resources shall not receive any management fee pursuant to the sale of the trust lands listed in subsection (2) of this section. Timber on the trust lands

which are the subject of this section shall continue to be under the management of the department of natural resources until such time as the legislature appropriates funds to the parks and recreation commission for purchase of said timber. The state parks which include trust lands which shall be the subject of this sale pursuant to this section are:

- (2) (a) Penrose Point
- (b) Kopachuck
- (c) Long Beach
- (d) Leadbetter Point
- (e) Nason Creek
- (f) South Whidbey
- (g) Blake Island
- (h) Rockport
- (i) Mt. Pilchuck
- (j) Ginkgo
- (k) Lewis & Clark
- (l) Rainbow Falls
- (m) Bogachiel
- (n) Sequim Bay
- (o) Federation Forest
- (p) Moran
- (q) Camano Island
- (r) Beacon Rock
- (s) Bridle Trails
- (t) Chief Kamiakin (formerly Kamiak Butte)
- (u) Lake Wenatchee
- (v) Fields Springs
- (w) Sun Lakes
- (x) Scenic Beach.

(3) The board of natural resources and the state parks and recreation commission shall negotiate a mutually acceptable transfer for adequate consideration to the state parks and recreation commission to be used for park and recreation purposes:

(a) All the state-owned Heart Lake property, including the timber therein, located in section 36, township 35 north, range 1E, W.M. in Skagit county;

(b) The Moran Park Additions, including the timber thereon, located in sections 16, 17, 19, 27, and 30, township 37 north, range 1W, W.M.;

(c) The Fort Ebey Addition (Partridge Point), including the timber thereon, located in section 36, township 32 north, range 1W, W.M. and section 6, township 31 north, range 1E, W.M.;

(d) The South Whidbey Addition (Classic U), including the timber thereon, located in section 29, township 30 north, range 2E, W.M.; and

(e) The Larrabee Addition, including the timber thereon, located in section 29, township 37 north, range 3E, W.M.

(4) The funds from the trust land purchase account designated for the acquisition of the ((Heart Lake)) property described in subsection (3) of this section, and the reasonable costs of acquisition, shall be deposited in the ((Heart Lake)) park land trust revolving fund, hereby created, to be utilized by the department of natural resources for the exclusive purpose of acquiring real property as a replacement for the ((Heart Lake)) property described in subsection (3) of this section to maintain the land base of the common school trust lands and for the reimbursement of the department of natural resources for all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the ((Heart Lake)) property described in subsection (3) of this section. Disbursements from the ((Heart Lake)) park land trust revolving fund to acquire replacement property, and pay for all reasonable costs of acquisition, for the ((Heart Lake)) property described in subsection (3) of this section shall be on the authorization of the board of natural resources. In order to maintain an effective expenditure and revenue control, the ((Heart Lake)) park land trust revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures and payment of obligations from the fund. The state treasurer shall be custodian of the revolving fund.

The department of natural resources shall pay all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the ((Heart Lake)) property described in subsection (3) of this section from funds provided in the trust land purchase account. Any agreement for the transfer of the ((Heart Lake)) property described in subsection (3) of this section shall not have an interest rate exceeding ten percent.

The parks and recreation commission is authorized to accept, receive, disburse, and administer grants or funds or gifts from any source including private individuals, public entities, and the federal government to supplement the funds from the trust land purchase account for the purchase of the ((Heart Lake)) property described in subsection (3) of this section.

Sec. 2. Section 2, chapter 210, Laws of 1971 ex. sess. as last amended by section 2, chapter 271, Laws of 1981 and RCW 43.51.280 are each amended to read as follows:

There is hereby created the trust land purchase account in the state general fund. Any revenues accruing to this account shall be used for the purchase of the ((entire Heart Lake)) property described in RCW 43.51.270(3)(a), to include all reasonable costs of acquisition, and a fee interest or such other interest in state trust lands presently used for park purposes as the state parks and recreation commission shall determine and to

reimburse the state parks and recreation commission for the cost of collecting such fees beginning with the 1973-75 fiscal biennium. Any funds remaining in the account shall be used for the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks and for the maintenance and operation of state parks in the 1981-83 biennium. Thereafter, the funds shall not be used for such purposes until the money in the account satisfies the payment required to be made in the contract for sale of lands in ~~((section 1 of this chapter))~~ RCW 43.51.270(2), the acquisition of the ~~((Heart Lake))~~ property described in RCW 43.51.270(3)(a), ~~((and))~~ those amounts necessary to pay for the remaining trust assets of timber situated on the lands described in ~~((section 1))~~ RCW 43.51.270(2), and for the acquisition of the property described in RCW 43.51.270(3) (b), (c), (d), and (e) on a schedule satisfactory to the board of natural resources. Payments may be delayed for property described in RCW 43.51.270(3) (b), (c), (d), and (e) until the existing contract for purchase of lands in RCW 43.51.270(2) has been paid off.

NEW SECTION. Sec. 3. Moneys in the Heart Lake revolving fund are hereby transferred to the park land trust revolving fund.

NEW SECTION. Sec. 4. The board of natural resources and the state parks and recreation commission shall conduct a comprehensive study of state trust lands to determine those suitable for addition to the state parks system. The board of natural resources and the state parks and recreation commission shall recommend to the 1987 regular session of the legislature a list of trust land parcels to be added to the state parks system.

Passed the House March 11, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 164

[Substitute House Bill No. 855]

ECONOMIC DEVELOPMENT—WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE—PROJECTS IN DISTRESSED AREAS

AN ACT Relating to economic development; adding a new section to chapter 42.18 RCW; adding a new section to chapter 43.160 RCW; and adding a new chapter to Title 43 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that:

(1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.

(2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.

(4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.

(5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and poverty. To accomplish this purpose, the legislature hereby creates the Washington state development loan fund committee and vests in the committee the authority to spend federal funds to stimulate the economy of distressed areas.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community development.

(3) "Director" means the director of the department of community development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; or (b) a community which has experienced sudden and severe loss of employment; or (c) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the

federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within a distressed area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in a distressed area.

(7) "Project" means the establishment of a new or expanded business in a distressed area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in a distressed area which when completed will provide employment opportunities.

NEW SECTION. Sec. 3. (1) The Washington state development loan fund committee is established as an entity within the department of community development. The committee shall have seven members. The director shall appoint the members, subject to the following requirements: (a) Three members shall be experienced in investment finance and have skills in providing capital to new and innovative businesses, in starting and operating businesses and providing professional services to small or expanding businesses; (b) two members shall be residents of distressed areas; (c) one member shall represent organized labor; and (d) one member shall represent a minority business. Careful consideration in making these appointments shall be taken to ensure that the various geographic regions of the state are represented, that members will be available for meetings on a regular basis, and will have a commitment to working with local governments and local development organizations.

(2) Each member appointed by the director shall serve a term of three years, except that of the members first appointed, two shall serve two-year terms and two shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the director only for cause.

(3) The director shall designate a member of the board as its chairperson. The committee may elect such other officers as it deems appropriate. Four members of the committee constitute a quorum and four affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members of the committee shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for wilful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others.

NEW SECTION. Sec. 4. Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within distressed areas. Applications approved by the committee under this chapter shall conform to applicable federal requirements.

NEW SECTION. Sec. 5. (1) The committee may only approve an application providing a loan for a project which the committee finds:

(a) Is located within a distressed area and may reasonably be expected to increase employment or maintain threatened employment;

(b) Has been approved by the director as conforming to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, and the employment of disadvantaged workers, will primarily accrue to residents of the distressed area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The committee may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the committee. The committee may require an annual or other periodic audit of the project books.

(3) The committee may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(4) The committee shall not approve any application which would result in a loan or grant in excess of three hundred fifty thousand dollars.

(5) The committee shall fix the terms and rates pertaining to its loans.

(6) Should there be more demand for loans than funds available for lending, the committee shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the committee shall also consider the employment which would be saved by its loan.

(7) To the extent permitted under federal law the committee shall require applicants to provide for the transfer of all payments of principal and

interest on loans to the Washington state development loan fund created under this chapter. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(8) The committee shall not approve any application to finance or help finance a shopping mall.

NEW SECTION. Sec. 6. The department shall provide adequate and appropriate staff and other support to the committee. A record of committee proceedings shall be maintained by the department. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration by the committee. The department shall adopt such rules and regulations as are appropriate for the committee to carry out its authority under this chapter.

NEW SECTION. Sec. 7. The committee shall receive and approve applications on a quarterly basis for each fiscal year. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the distressed area. Each application shall contain a credit analysis of the business to receive the loan. The chairperson of the committee may convene the committee on short notice to respond to applications of a serious or immediate nature.

NEW SECTION. Sec. 8. The department shall annually submit a complete and detailed report of the committee's activities within ninety days after the end of the fiscal year to the governor and the legislature.

NEW SECTION. Sec. 9. The department shall make available for use by the committee an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds.

NEW SECTION. Sec. 10. The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the committee with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements dealing with the entitlement community's spending of federal community development block grant funds, assuming the grant moneys were block grant funds received from the federal

government; and (3) spend double the amount of the grant for loans to businesses from the federal funds received by the entitlement community as community development block grant funds.

NEW SECTION. Sec. 11. There is established the Washington state development loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under section 5 of this chapter shall be deposited into the account. Moneys in the account may be spent without legislative appropriation for loans under this chapter. However, any expenditures of these moneys shall conform to federal law.

NEW SECTION. Sec. 12. A new section is added to chapter 42.18 RCW to read as follows:

Nothing in this chapter shall apply to prevent a member of the Washington state loan fund committee from fully participating in committee decisions to loan to, contract with, or otherwise deal with any person or entity in which the member is in any way interested or involved.

NEW SECTION. Sec. 13. Sections 1 through 11 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 14. A new section is added to chapter 43.160 RCW to read as follows:

In addition to its powers and duties under this chapter, the community economic revitalization board shall cooperate with the Washington state development loan fund committee in order to provide for coordination of their very similar programs. Under this chapter, it is the duty of the department of commerce and economic development and the board to financially assist the committee to the extent required by law. Funds appropriated to the board or the department of commerce and economic development for the use of the board shall be transferred to the department of community development to the extent required by law.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 15, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 165

[House Bill No. 73]

COMMISSION ON EQUIPMENT—MEMBER'S DESIGNEES

AN ACT Relating to the commission on equipment; and amending RCW 46.37.005.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 46.37.005, chapter 12, Laws of 1961 as last amended by section 1, chapter 106, Laws of 1982 and RCW 46.37.005 are each amended to read as follows:

There is constituted a state commission on equipment which shall consist of the director of the department of licensing, the chief of the Washington state patrol, and the secretary of transportation (~~(, or, when duly designated, their respective deputy director, deputy chief, deputy or assistant secretary)~~). Each official may designate an administrative staff person to serve as the official's designee on the commission. For purposes of continuity this designee shall, where possible, be one individual. The chief of the Washington state patrol or his designee shall act as the chairman of the state commission on equipment. He shall appoint either the director of licensing or the secretary of transportation or their respective designees to serve as vice-chairman in his absence. The chairman or the designated vice-chairman must be present at each meeting of the commission. The chief shall appoint a person under his supervision to act as secretary of the state commission on equipment who shall be responsible for the issuance of rules and regulations adopted by the commission, for the issuance of certificates of approval for vehicle equipment requiring approval and letters of appointment to tow operators, and for the administration of such other business of the commission on equipment as the commission shall specify.

In addition to those powers and duties elsewhere granted by the provisions of this title the state commission on equipment shall have the power and the duty to adopt, apply, and enforce such reasonable rules and regulations (1) relating to proper types of vehicles or combinations thereof for hauling passengers, commodities, freight, and supplies, (2) relating to vehicle equipment, and (3) relating to the enforcement of the provisions of this title with regard to vehicle equipment, as may be deemed necessary for the public welfare and safety in addition to but not inconsistent with the provisions of this title.

The state commission on equipment is authorized to adopt by regulation, federal standards relating to motor vehicles and vehicle equipment, issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, or any amendment to said act, notwithstanding any provision in Title 46 RCW inconsistent with such standards. Federal standards adopted pursuant to this section shall be applicable only to vehicles manufactured in a model year following the adoption of such standards.

Passed the House February 11, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 166

[Substitute House Bill No. 279]

PUBLIC HOSPITAL DISTRICTS—BOARD MEETINGS—EXECUTIVE
SESSIONS FOR HEALTH CARE PROVIDER STATUS

AN ACT Relating to public hospital districts; and adding a new section to chapter 70.44 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.44 RCW to read as follows:

All meetings, proceedings, and deliberations of the board of commissioners, its staff or agents, concerning the granting, denial, revocation, restriction, or other consideration of the status of the clinical or staff privileges of a physician or other health care provider as that term is defined in RCW 7.70.020, if such other providers at the discretion of the district's commissioners are considered for such privileges, shall be confidential and may be conducted in executive session: PROVIDED, That the final action of the board as to the denial, revocation, or restriction of clinical or staff privileges of a physician or other health care provider as defined in RCW 7.70.020 shall be done in public session.

Passed the House April 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 167

[Engrossed House Bill No. 281]

RADIO COMMUNICATIONS SERVICE COMPANIES

AN ACT Relating to regulation of radio communications service companies; amending RCW 80.04.010; and adding a new chapter to Title 80 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 80.04.010, chapter 14, Laws of 1961 as last amended by section 10, chapter 191, Laws of 1979 ex. sess. and RCW 80.04.010 are each amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or copartnership.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

"Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

"Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

"Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

"Radio communications service company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide radio communications service, radio paging, or cellular communications service for hire, sale, or resale.

"Telephone company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

"Telephone line" includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

"Telegraph company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

"Telegraph line" includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

"Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

"Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: PROVIDED, That it shall not include any water system serving less than sixty customers where the average annual gross revenue per customer does not exceed one hundred twenty dollars per year.

"Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

"Public service company" includes every gas company, electrical company, telephone company, telegraph company and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

The term "service" is used in this title in its broadest and most inclusive sense.

NEW SECTION. Sec. 2. A new chapter is added to Title 80 RCW to read as follows:

The commission shall not regulate radio communications service companies, except that:

(1) The commission may regulate the rates, services, facilities, and practices of radio communications service companies, within a geographic service area or a portion of a geographic service area in which it is authorized to operate by the federal communications commission if it is the only provider of basic telecommunications service within such geographic service

area or such portion of a geographic service area. For purposes of this section, "basic telecommunications service" means voice grade, local exchange telecommunications service.

(2) Actions or transactions of radio communications service companies that are not regulated pursuant to subsection (1) of this section shall not be deemed actions or transactions otherwise permitted, prohibited, or regulated by the commission for purposes of RCW 19.86.170.

(3) Radio communications service companies shall file with the commission copies of all agreements with any of their affiliated interests as defined in RCW 80.16.010, showing the rates, tolls, rentals, contracts, and charges of such affiliated interest for services rendered and equipment and facilities supplied to the radio communications service company, except that such agreements need not be filed where the services rendered and equipment and facilities supplied are provided by the affiliated interest under a tariff or price list filed with the commission.

Passed the House March 8, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 168

[House Bill No. 169]

PUBLIC LANDS EXCHANGES

AN ACT Relating to public lands; creating new sections; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The board of natural resources shall exchange common school trust lands leased by the state board for community college education as sites for the Green River, Grays Harbor, and Highline community colleges for land of equal value granted to the state for the support of charitable, educational, penal, and reformatory purposes. The state board for community college education shall not be charged rent for the use of land assigned under this section after the exchange is completed by the board of natural resources.

NEW SECTION. Sec. 2. The department of corrections shall not be charged rent for the site of the Purdy treatment center which is located on land granted to the state for the support of charitable, educational, penal, and reformatory purposes.

NEW SECTION. Sec. 3. The state board for community college education shall be responsible for payment of any rents due prior to completion of the exchange. The sum of six hundred ninety-six thousand eight hundred

dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1985, from the charitable, educational, penal and reformatory institutions account in the state general fund to the state board for community college education to pay the rents due.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 169

[House Bill No. 949]

ENERGY EQUIPMENT AND SERVICES—PROCUREMENT—PERFORMANCE-BASED CONTRACTS

AN ACT Relating to procurement of energy equipment and services under performance-based contracts by municipalities; amending RCW 35.22.620, 35.23.352, 36.32.240, and 36.32.250; adding a new section to chapter 39.04 RCW; adding a new chapter to Title 39 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that:

- (1) Conserving energy in publicly owned buildings will have a beneficial effect on our overall supply of energy;
- (2) Conserving energy in publicly owned buildings can result in cost savings for taxpayers; and
- (3) Performance-based energy contracts are a means by which municipalities can achieve energy conservation without capital outlay.

Therefore, the legislature declares that it is the policy that a municipality may, after a competitive selection process, negotiate a performance-based energy contract with a firm that offers the best proposal.

NEW SECTION. Sec. 2. Unless the context clearly indicates otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Energy equipment and services" means any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance.

(2) "Municipality" has the definition provided in RCW 39.04.010.

(3) "Performance-based contract" means one or more contracts for energy equipment and services between a municipality and any other persons or entities, if the payment obligation for each year under the contract, including the year of installation, is either: (a) Set as a percentage of the annual energy cost savings attributable under the contract to the energy equipment and services; or (b) guaranteed by the other persons or entities to be less than the annual energy cost savings attributable under the contract to the energy equipment and services. Such guarantee shall be, at the option of the municipality, a bond or insurance policy, or some other guarantee determined sufficient by the municipality to provide a level of assurance similar to the level provided by a bond or insurance policy.

NEW SECTION. Sec. 3. (1) Each municipality shall publish in advance its requirements to procure energy equipment and services under a performance-based contract. The announcement shall state concisely the scope and nature of the equipment and services for which a performance-based contract is required, and shall encourage firms to submit proposals to meet these requirements.

(2) The municipality may negotiate a fair and reasonable performance-based contract with the firm that is identified, based on the criteria that is established by the municipality, to be the firm that submits the best proposal.

(3) If the municipality is unable to negotiate a satisfactory contract with the firm that submits the best proposal, negotiations with that firm shall be formally terminated and the municipality may select another firm in accordance with this section and continue negotiation until a performance-based contract is reached or the selection process is terminated.

NEW SECTION. Sec. 4. If a municipality chooses, by resolution or other appropriate mechanism, to negotiate a performance-based contract under this chapter, no otherwise applicable statutory procurement requirement applies.

NEW SECTION. Sec. 5. A new section is added to chapter 39.04 RCW to read as follows:

This chapter shall not apply to performance-based contracts, as defined in section 2(3) of this act, that are negotiated under chapter 39.—RCW (sections 2 through 4 of this act).

Sec. 6. Section 1, chapter 56, Laws of 1975 1st ex. sess. as amended by section 1, chapter 89, Laws of 1979 ex. sess. and RCW 35.22.620 are each amended to read as follows:

(1) Any public work or improvement of a first class city shall be done by contract pursuant to public notice and call for competitive bids, whenever the estimated cost of such work or improvement, including the cost of materials, supplies, and equipment will exceed the sum of ten thousand dollars: PROVIDED, That whenever this public work or improvement is for

construction of water mains, such sum shall be fifteen thousand dollars. When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

(2) In addition to the procedures of subsection (1) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of thirty thousand dollars or less.

(a) The city may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is thirty thousand dollars or less, and the city uses the small works roster, the city shall invite proposals from all appropriate contractors on the small works roster; PROVIDED, That whenever possible, the city shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is thirty thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

(3) This section does not apply to performance-based contracts, as defined in section 2(3) of this 1985 act, that are negotiated under chapter 39.— RCW (sections 2 through 4 of this 1985 act).

Sec. 7. Section 35.23.352, chapter 7, Laws of 1965 as last amended by section 2, chapter 89, Laws of 1979 ex. sess. and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public work or improvement by contract or day labor without calling for bids therefor whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment will not exceed the sum of fifteen thousand dollars. Whenever the cost of such public work or improvement, including materials, supplies and equipment, will exceed fifteen thousand dollars, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. Such notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or

commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. If there is no official newspaper the notice shall be published in a newspaper published or of general circulation in the city or town. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call. When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform such work or improvement by day labor.

(2) In addition to the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of twenty thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is twenty thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That whenever possible, the city or town shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is twenty thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(3) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where

the cost thereof exceeds two thousand dollars shall be made upon call for bids: PROVIDED, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.

(4) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(5) For advertisement and competitive bidding to be dispensed with as to purchases between two thousand and four thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(6) This section does not apply to performance-based contracts, as defined in section 2(3) of this 1985 act, that are negotiated under chapter 39.— RCW (sections 2 through 4 of this 1985 act).

Sec. 8. Section 36.32.240, chapter 4, Laws of 1963 as last amended by section 77, chapter 3, Laws of 1983 and RCW 36.32.240 are each amended to read as follows:

In any county the board of county commissioners may by resolution establish a county purchasing department and thereafter such department shall contract on a competitive basis for all public works and purchase or lease on a competitive basis all supplies, materials, and equipment, for all departments of the county, exclusive of the county hospital, pursuant to the provisions hereof and under such rules as the board shall by resolution adopt, except for such contracts and purchases as shall be made pursuant to RCW 36.77.065, 36.77.070 and 36.82.130, and except for such contracts and purchases for the printing of election ballots, voting machine labels and all other election material containing the names of candidates and ballot titles, and performance-based contracts as defined in section 2(3) of this 1985 act, that are negotiated under chapter 39.— RCW (sections 2 through 4 of this 1985 act): PROVIDED, That in all class AA or class A counties or in any county of the first class it shall be mandatory that a purchasing department be established.

Sec. 9. Section 36.32.250, chapter 4, Laws of 1963 as last amended by section 1, chapter 267, Laws of 1977 ex. sess. and RCW 36.32.250 are each amended to read as follows:

No contract, lease or purchase shall be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county legislative authority upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the date after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper: PROVIDED, That advertisements for public works contracts for construction, alteration, repair, or improvement of public facilities shall be additionally published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done: AND PROVIDED FURTHER, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at a meeting of the county legislative authority on the date named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid shall be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work, lease or purchase shall be awarded to the lowest responsible bidder; taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease or purchase involving less than three thousand five hundred dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative

authority. Notice of intention to let contracts or to enter into lease agreements involving amounts exceeding one thousand dollars but less than three thousand five hundred dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such lease or contract. For advertisement and competitive bidding to be dispensed with as to purchases between one thousand and three thousand five hundred dollars, the county legislative authority must authorize by resolution a county procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department.

This section does not apply to performance-based contracts, as defined in section 2(3) of this 1985 act, that are negotiated under chapter 39.—RCW (sections 2 through 4 of this 1985 act).

NEW SECTION. Sec. 10. Sections 2 through 4 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House March 19, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 170

[Engrossed Senate Bill No. 3494]

TURKEY SHOOTS

AN ACT Relating to turkey shoots conducted by charitable or nonprofit organizations; and amending RCW 9.46.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 139, Laws of 1981 as amended by section 1, chapter 70, Laws of 1984 and RCW 9.46.030 are each amended to read as follows:

(1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, and fund raising events, and to utilize punch boards and pull-tabs and to allow their

premises and facilities to be used by only members, their guests, and members of a chapter or unit organized under the same state, regional, or national charter or constitution, to play social card games authorized by the commission, when licensed, conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(2) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: **PROVIDED**, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles.

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.020(2) as now or hereafter amended: **PROVIDED**, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together do not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(4) The legislature hereby authorizes any person, association or organization operating an established business primarily engaged in the selling of food or drink for consumption on the premises to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant to such business when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(5) The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize.

(6) The legislature hereby authorizes any person, association, or organization to conduct sports pools without a license to do so from the commission but only when the outcome of which is dependent upon the score, or scores, of a certain athletic contest and which is conducted only in the following manner:

(a) A board or piece of paper is divided into one hundred equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered directly to prospective contestants at one dollar or less; and

(b) The purchaser of each chance or square signs his or her name on the face of each square or chance he or she purchases; and

(c) At some time not later than prior to the start of the subject athletic contest the pool is closed and no further chances in the pool are sold; and

(d) After the pool is closed a prospective score is assigned by random drawing to each square; and

(e) All money paid by entrants to enter the pool less taxes is paid out as the prize or prizes to those persons holding squares assigned the winning score or scores from the subject athletic contest; and

(f) The sports pool board is available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand at all times prior to the payment of the prize; and

(g) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(h) The sports pool conforms to any rules and regulations of the commission applicable thereto.

(7) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct, without the necessity of obtaining a permit or license to do so from the commission, golfing sweepstakes permitting wagers of money, and the same shall not constitute such gambling or lottery as

otherwise in this chapter prohibited, or be subject to civil or criminal penalties thereunder, but this only when the outcome of such golfing sweepstakes is dependent upon the score, or scores, or the playing ability, or abilities, of a golfing contest between individual players or teams of such players, conducted in the following manner:

(a) Wagers are placed by buying tickets on any players in a golfing contest to "win", "place" or "show" and those holding tickets on the three winners may receive a payoff similar to the system of betting identified as parimutuel, such moneys placed as wagers to be used primarily as winners proceeds, except moneys used to defray the expenses of such golfing sweepstakes or otherwise used to carry out the purposes of such organization; or

(b) Participants in any golfing contest(s) pay a like sum of money into a common fund on the basis of attaining a stated number of points ascertainable from the score of such participants, and those participants attaining such stated number of points share equally in the moneys in the common fund, without any percentage of such moneys going to the sponsoring organization; and

(c) Participation is limited to members of the sponsoring organization and their bona fide guests.

(8) The legislature hereby authorizes bowling establishments to conduct, without the necessity of obtaining a permit or license to do so, as a commercial stimulant, a bowling activity which permits bowlers to purchase tickets from the establishment for a predetermined and posted amount of money which tickets are then selected by the luck of the draw and the holder of the matching ticket so drawn has an opportunity to bowl a strike and if successful receives a predetermined and posted monetary prize: PROVIDED, That all sums collected by the establishment from the sale of tickets shall be returned to purchasers of tickets and no part of the proceeds shall inure to any person other than the participants winning in the game or a recognized charity. The tickets shall be sold, and accounted for, separately from all other sales of the establishment. The price of any single ticket shall not exceed one dollar. Accounting records shall be available for inspection during business hours by any person purchasing a chance thereon, by the commission or its representatives, or by any law enforcement agency.

(9) (a) The legislature hereby authorizes any bona fide charitable or nonprofit organization which is licensed pursuant to RCW 66.24.400, and its officers and employees, to allow the use of the premises, furnishings, and other facilities not gambling devices of such organization by members of the organization, and members of a chapter or unit organized under the same state, regional, or national charter or constitution, who engage as players in the following types of gambling activities only:

(i) Social card games as defined in RCW 9.46.020(20)(a), (b), (c), and (d); and

(ii) Social dice games, which shall be limited to contests of chance, the outcome of which are determined by one or more rolls of dice.

(b) Bona fide charitable or nonprofit organizations shall not be required to be licensed by the commission in order to allow use of their premises in accordance with this subsection; however, the following conditions must be met:

(i) No organization, corporation, or person shall collect or obtain or charge any percentage of or shall collect or obtain any portion of the money or thing of value wagered or won by any of the players: PROVIDED, That a player may collect his or her winnings; and

(ii) No organization, corporation, or person shall collect or obtain any money or thing of value from, or charge or impose any fee upon, any person which either enables him or her to play or results in or from his or her playing: PROVIDED, That this subparagraph (ii) shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this subsection.

The penalties provided for professional gambling in this chapter shall not apply to the activities authorized by this section when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission.

(10) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct, without the necessity of obtaining a permit or license to do so from the commission, turkey shoots permitting wagers of money. Such contests shall not constitute such gambling or lottery as otherwise in this chapter prohibited, or be subject to civil or criminal penalties. Such organizations must be organized for purposes other than the conduct of turkey shoots.

Such turkey shoots shall be held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules that may be adopted by the commission. Gross revenues from all such turkey shoots held by the organization during the calendar year shall not exceed five thousand dollars. Turkey shoots conducted under this section shall meet the following requirements:

(a) The target shall be divided into one hundred or fewer equal sections, with each section constituting a chance to win. Each chance shall be offered directly to a prospective contestant for one dollar or less;

(b) The purchaser of each chance shall sign his or her name on the face of the section he or she purchases;

(c) The person shooting at the target shall not be a participant in the contest, but shall be a member of the organization conducting the contest;

(d) Participation in the contest shall be limited to members of the organization which is conducting the contest and their guests;

(e) The target shall contain the following information:

(i) Distance from the shooting position to the target;

- (ii) The gauge of the shotgun;
- (iii) The type of choke on the barrel;
- (iv) The size of shot that will be used; and
- (v) The prize or prizes that are to be awarded in the contest;
- (f) The targets, shotgun, and ammunition shall be available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand, at all times before the prizes are awarded;
- (g) The turkey shoot shall award the prizes based upon the greatest number of shots striking a section;
- (h) No turkey shoot may offer as a prize the right to advance or continue on to another turkey shoot or turkey shoot target; and
- (i) Only bona fide members of the organization who are not paid for such service may participate in the management or operation of the turkey shoot, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization.

Passed the Senate March 12, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 171

[Substitute Senate Bill No. 4114]

SECURITIES SALES BY STATE OR SUBDIVISIONS OF STATE—LIABILITY FOR FRAUDULENT ACTIVITIES CONNECTED TO SALE OF CERTAIN SECURITIES

AN ACT Relating to securities of the state, its agencies, political subdivisions, municipal corporations, or instrumentalities; and amending RCW 21.20.430.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43, chapter 282, Laws of 1959 as last amended by section 9, chapter 272, Laws of 1981 and RCW 21.20.430 are each amended to read as follows:

(1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.010 or 21.20.140 through 21.20.230, is liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security in violation of the provisions of RCW 21.20.010 is liable to the person selling the security to him or her, who may sue either at law or in equity to recover the security, together with any income received on the security, upon tender of the consideration received, costs, and reasonable attorneys' fees, or if the security cannot be recovered, for damages. Damages are the value of the security when the buyer disposed of it, and any income received on the security, less the consideration received for the security, plus interest at eight percent per annum from the date of disposition, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, director or person who occupies a similar status or performs a similar function of such seller or buyer, every employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesperson, or person exempt under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless such person sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale for any violation of the provisions of RCW 21.20.140 through 21.20.230, or more than three years after a violation of the provisions of RCW 21.20.010, either was discovered by such person or would have been discovered by him or her in the exercise of reasonable care. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he or she owned the security, to refund the consideration paid together with interest at eight percent per annum from the date of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(6) Any tender specified in this section may be made at any time before entry of judgment.

(7) Notwithstanding subsections (1) through (6) of this section, if an initial offer or sale of securities that are exempt from registration under RCW 21.20.310 is made by ((the)) this state or its agencies, political subdivisions, municipal or quasi-municipal corporations, or other instrumentality of one or more of the foregoing and is in violation of RCW 21.20.010(2), ((each)) and any such issuer, member of the governing body, committee member, public officer, director, employee, or agent of such issuer acting on its behalf, or person in control of ((the state or agency, each)) such issuer, member of the governing body, committee member, public officer, ((or)) director, employee, or agent of such person acting on its behalf, ((and each employee thereof who)) materially aids in the offer or sale, ((are)) such person is liable to the purchaser of the security only if the purchaser establishes scienter on the part of the defendant. The word "employee" or the word "agent," as such words are used in this subsection, do not include a bond counsel or an underwriter. Under no circumstances whatsoever shall this subsection be applied to require purchasers to establish scienter on the part of bond counsels or underwriters.

Passed the Senate April 17, 1985.

Passed the House April 16, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 172

[Senate Bill No. 3486]

GAMBLING TAX BY COUNTIES MODIFIED

AN ACT Relating to taxation of gambling; and amending RCW 9.46.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 139, Laws of 1981 and RCW 9.46.110 are each amended to read as follows:

The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated

~~areas of such county ((including both incorporated and unincorporated areas, except for any city located therein with a population of twenty thousand or more persons as of the most recent decennial census taken by the federal government))~~: PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a twenty-five cent limit on a single chance thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs must be on display within the immediate area of the premises wherein any such punch board or pull-tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud for the purposes of this chapter; and (4) when any person shall win over twenty dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: AND PROVIDED FURTHER, That taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross revenue received therefrom less the amount paid for or as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross revenue therefrom less the amount paid for as prizes: PROVIDED FURTHER, That no tax shall be imposed under the authority of this chapter on bingo, raffles or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.020(3), which organization has no paid operating or management personnel and has gross income from bingo, raffles or amusement games, or any combination thereof, not exceeding five thousand dollars per year less the amount paid for as prizes. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts, nor shall taxation of social card games exceed twenty percent of the gross revenue from such games.

Passed the Senate March 11, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 173

[Senate Bill No. 3401]

COMMERCIAL MOTOR VEHICLE LICENSING RECIPROCITY—REVISIONS

AN ACT Relating to motor vehicle licensing; amending RCW 46.16.565, 46.85.020, 46.85.040, 46.85.120, 46.85.190, 46.85.270, 46.85.280, and 46.85.290.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 200, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 27, Laws of 1983 and RCW 46.16.565 are each amended to read as follows:

Any person who is the registered owner of a passenger motor vehicle, a motor truck, a trailer, a camper, a private bus, or a motorcycle registered with the department, excluding proportionally registered vehicles, or who makes application for an original registration or renewal registration of such vehicle or camper may, upon payment of the fee prescribed in RCW 46.16.585, apply to the department for personalized license plates, in the manner described in RCW 46.16.580, which plates shall be affixed to the vehicle or camper for which registration is sought in lieu of the regular license plates.

Sec. 2. Section 2, chapter 106, Laws of 1963 as last amended by section 18, chapter 227, Laws of 1982 and RCW 46.85.020 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial vehicle" means any vehicle (~~which is~~), except recreational vehicles, vehicles displaying restricted plates, and government-owned or leased vehicles, that is operated in more than one ((state)) jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed ((or)), used, or maintained primarily for the transportation of property or for drawing other vehicles so designed, used, or maintained and:

(a) Is a motor vehicle having a declared gross vehicle weight in excess of twenty-six thousand pounds; or

(b) Is a motor vehicle having three or more axles with a declared gross vehicle weight in excess of twelve thousand pounds; or

(c) Is a motor vehicle, trailer, or semitrailer used in combination when the declared gross weight of the combination exceeds twenty-six thousand pounds combined gross vehicle weight; or

(d) Is a converter gear.

Although a two-axle motor vehicle, trailer, semitrailer, or any combination of such vehicles with a registered gross weight or registered combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand pounds is not considered to be a commercial vehicle under subsection (1) (a) and (c) of this section, such vehicles, at the option

of the owner, may be considered as "commercial vehicles" for the purposes of proportional registration.

Commercial vehicles include trucks, tractors, truck tractors, road tractors, buses, converter gears (auxiliary axles), and semi and full trailers, each as separate vehicles.

(2) "Jurisdiction" means and includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(3) "Owner" means a person who holds the legal title to a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner shall be deemed to be such person in whom is vested right of possession or control.

(4) "Properly registered," as applied to place of registration, means:

(a) The jurisdiction where the person registering the vehicle has his legal residence; or

(b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from such place of business, and, the vehicle has been assigned to such place of business; or

(c) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by said jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(5) "Fleet" means ~~((three))~~ one or more commercial vehicles ~~((:PROVIDED, That the department may require proportional registration and licensing of a fleet of less than three vehicles whenever in its judgment the interests of this state will be best served and protected thereby)).~~

(6) The words "department," "motor vehicle," "person," and "vehicle" each have the meanings ascribed to them, respectively, by RCW 46.04.690, 46.04.320, 46.04.405, and 46.04.670.

(7) "Preceding year" means a period of twelve consecutive months fixed by the department which period shall be within the ~~((sixteen))~~ eighteen months immediately preceding the commencement of the registration or

license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(8) "Registration year" means the period from January 1st through December 31st of each calendar year.

Sec. 3. Section 4, chapter 106, Laws of 1963 as amended by section 20, chapter 227, Laws of 1982 and RCW 46.85.040 are each amended to read as follows:

The department may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied, benefits, privileges, and exemptions from the payment, wholly or partially, of any taxes, fees, or other charges imposed upon such vehicles or owners with respect to the operation or ownership of such vehicles under the laws of this state(~~(; except gallonage taxes on motor fuels)~~). Such an agreement or arrangement shall provide that vehicles properly registered or licensed in this state when operated upon highways of such other jurisdiction shall receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to vehicles properly registered or licensed in such jurisdiction when operated in this state. Each such agreement or arrangement shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce.

Sec. 4. Section 12, chapter 106, Laws of 1963 as last amended by section 3, chapter 222, Laws of 1981 and RCW 46.85.120 are each amended to read as follows:

(1) Any owner engaged in interstate operation of one or more fleets may, in lieu of registration of vehicles under (~~(the provisions of)~~) chapter 46.16 RCW (~~(and payment of taxes and fees imposed by chapter 82.44 RCW and RCW 82.38.075)~~), register and license each fleet for operation in this state under chapter 46.85 RCW by filing a prorate application for each fleet with the department (~~(which shall)~~) containing the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the (~~(motor)~~) vehicles in such fleet during said year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by the (~~(motor)~~) vehicles in such fleet during said year.

(c) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by fee payment computed as follows:

(a) Divide the sum of the in-state miles by total fleet miles.

(b) Determine the total ~~((amount necessary))~~ fees and taxes required under ((the provisions referred to in)) subsection (({+})) (2)(c) of this section to register each and every vehicle in the fleet for which registration is requested, based on the regular annual fees or applicable fees for the unexpired portion of the registration year.

(c) Multiply the sum ~~((obtained under subsection (2)(b) hereof))~~ of the prorable fees and taxes required by RCW 46.16.060, 46.16.070, 82.38.075, and 82.44.020 by the fraction obtained under subsection (2)(a) ((hereof)) of this section and then add the other applicable fees required by RCW 46.01.140 and chapters 46.16 and 46.85 RCW that are nonprorable.

(3) The applicant for proportional registration of any fleet, the nonmotor vehicles of which are operated in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state such nonmotor vehicles ~~((separately in his))~~ in a separate application and compute and pay the fees therefor in accordance with such separate ((statement)) application, as to which "total miles" shall be the total miles operated in all jurisdictions during the preceding year.

(4) In no event shall the proportional fee payment be less than a minimum of five dollars per motor truck, truck tractor, or auto stage, and three dollars per vehicle of any other type.

Sec. 5. Section 19, chapter 106, Laws of 1963 as last amended by section 1, chapter 221, Laws of 1981 and RCW 46.85.190 are each amended to read as follows:

Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four years following the preceding year or period upon which the application is based. These records shall be complete and shall include, but not be limited to, the following: Copies of prorable registration applications and supplements for all jurisdictions in which the fleet is prorated; proof of proportional or full registration with other jurisdictions; vehicle license or trip permits; temporary prorable authorization permits; documents establishing the latest purchase year and cost of each fleet vehicle in ready-for-the-road condition; weight certificates indicating the unladen, ready-for-the-road, weight of each vehicle in the fleet; periodic summaries of mileage by fleet and by individual vehicles; individual trip reports, driver's daily logs, or other source documents maintained for each individual trip

which provide trip dates, points of origin and destinations, total miles traveled, miles traveled in each jurisdiction, routes traveled, vehicle equipment number, driver's full name, and all other information pertinent to each trip. Upon request of the department, the owner shall make such records available to the department at its designated office for audit as to accuracy of records, computations, and payments. The department shall assess and collect any unpaid fees and taxes found to be due the state and provide credits or refunds for overpayments as determined in accordance with formulas and other requirements prescribed in this chapter. If the owner fails to maintain complete records as required by this section, the department shall attempt to reconstruct or reestablish such records. However, if the department is unable to do so and the missing or incomplete records involve mileages accrued by vehicles while they are part of the fleet, the department may assess an amount not to exceed the difference between the proportional fees and taxes paid and one hundred percent of the fees and taxes. Further, if the owner fails to maintain complete records as required by this section, or if the department determines that the owner should have registered more vehicles in this state under the provisions of this chapter, the department may deny the owner the right of any further benefits provided by this chapter until any final audit assessment under this chapter has been satisfied.

The department may audit the records of any owner and may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any fees, taxes, penalties, or interest found to be due and owing the state upon audit shall bear interest at twelve percent per annum from the ~~((end of the calendar year in))~~ date on which the deficiency is incurred until the date of payment. If the audit discloses a deliberate and willful intent to evade the requirements of payment under RCW 46.85.120, a penalty of ten percent shall also be assessed.

If the audit discloses that an overpayment to the state in excess of five dollars has been made, the department shall certify such overpayment to the state treasurer who shall issue a warrant for such overpayment to the vehicle operator. Overpayments shall bear interest at the rate of ~~((four))~~ eight percent per annum from the ~~((end of the calendar year in))~~ date on which the overpayment is incurred until the date of payment.

Sec. 6. Section 27, chapter 106, Laws of 1963 as amended by section 23, chapter 227, Laws of 1982 and RCW 46.85.270 are each amended to read as follows:

The department may require the display of a special reciprocity identification plate upon any ~~((commercial))~~ eligible vehicle operating within this state under the provisions of any reciprocal or other agreement that requires proportional registration of vehicles between this state and the ~~((state or~~

~~other))~~ jurisdiction in which such vehicle is properly registered and licensed~~((~~PROVIDED, That such~~)).~~ The reciprocal agreement ((is)) must be on file with the department~~((~~PROVIDED FURTHER, That the~~)).~~

An eligible vehicle is defined as a two-axle motor vehicle, or a trailer, semitrailer, or any combination of such vehicles with a registered gross weight or registered combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand pounds. Rental vehicles, recreational vehicles, vehicles displaying restricted plates, government-owned or leased vehicles, Washington-based vehicles, and vehicles or combinations of vehicles weighing more than twenty-six thousand pounds are ineligible to use special reciprocity identification plates.

Issuance and display of ((such)) the reciprocity identification plate shall not be deemed to enlarge upon, restrict, or in any manner affect the terms or conditions of ((such reciprocal)) the agreement.

Sec. 7. Section 28, chapter 106, Laws of 1963 as amended by section 8, chapter 222, Laws of 1981 and RCW 46.85.280 are each amended to read as follows:

Each reciprocity identification plate ~~((shall be))~~ is valid throughout the registration year ~~((in))~~ for which it was issued~~((~~PROVIDED, That such~~)).~~ The identification plate ((shall)) becomes invalid upon the termination of ((any reciprocal)) the agreement between this state and the ((state or)) jurisdiction ((wherein such)) in which the vehicle is licensed.

Sec. 8. Section 29, chapter 106, Laws of 1963 as last amended by section 9, chapter 222, Laws of 1981 and RCW 46.85.290 are each amended to read as follows:

All special reciprocity identification plates shall be obtained by the director in the manner prescribed in RCW 46.16.230 and shall be issued by the director or his authorized agent upon application in the form prescribed in RCW 46.16.040. One reciprocity identification plate shall be issued for each eligible vehicle. The fee ~~((therefor))~~ shall be two dollars plus a filing fee of one dollar. All funds collected under this section shall be transmitted to the state treasurer and deposited in the motor vehicle fund.

Passed the Senate April 16, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 174

[Substitute House Bill No. 14]

SALMON ANGLING LICENSES—OREGON—WASHINGTON BOUNDARY—
RECIPROCITY MODIFIED

AN ACT Relating to salmon angling licenses in concurrent waters of the Columbia river and in coastal territorial waters along the Oregon-Washington boundary; and amending RCW 75.25.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 17, chapter 327, Laws of 1977 ex. sess. as amended by section 96, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.120 are each amended to read as follows:

In concurrent waters of the Columbia river and in Washington coastal territorial waters from the Oregon-Washington boundary to a point five nautical miles north, an Oregon angling license comparable to the Washington salmon angling license is valid if Oregon recognizes as valid the Washington salmon angling license in comparable Oregon waters.

If Oregon recognizes as valid the Washington salmon angling license southward to Cape Falcon in the coastal territorial waters from the Washington-Oregon boundary and in concurrent waters of the Columbia river then Washington shall recognize a valid Oregon angling license northward to Leadbetter Point.

Oregon licenses are not valid for the taking of salmon when angling in concurrent waters of the Columbia river from the Washington shore.

Passed the House February 20, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 175

[Substitute House Bill No. 28]

BIENNIAL MUNICIPAL BUDGETS AUTHORIZED

AN ACT Relating to city and town budgets; amending RCW 1.16.020, 35.32A.010, 35.32A.030, 35.32A.040, 35.32A.060, 35.33.020, and 35A.33.020; adding a new chapter to Title 35 RCW; adding a new chapter to Title 35A RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature hereby recognizes that the development and adoption of a budget by a city or town is a lengthy and intense process designed to provide adequate opportunities for public input and sufficient time for deliberation and enactment by the legislative authority. The legislature also recognizes that there are limited amounts of time

available and that time committed for budgetary action reduces opportunities for deliberating other issues. It is, therefore, the intent of the legislature to authorize cities and towns to establish by ordinance a biennial budget and to provide the means for modification of such budget. This chapter and chapter 35A, RCW (sections 34 through 60 of this act) shall be known as the municipal biennial budget act.

Sec. 2. Section 1, chapter 86, Laws of 1923 as amended by section 2, chapter 184, Laws of 1953 and RCW 1.16.020 are each amended to read as follows:

The fiscal biennium of the state shall commence on the first day of July in each odd-numbered year and end on the thirtieth day of June of the next succeeding odd-numbered year. The fiscal biennium of those cities and towns which utilize a biennial budget shall commence on the first day of January in each odd-numbered year and end on the thirty-first day of December of the next succeeding even-numbered year.

Sec. 3. Section 3, chapter 7, Laws of 1967 and RCW 35.32A.010 are each amended to read as follows:

In each city of over three hundred thousand population, there shall be enacted annually by the legislative authority a budget covering all functions or programs of such city(~~(: PROVIDED, That the provisions of)~~) except in those cities in which an ordinance has been adopted under section 7 of this 1985 act providing for a biennial budget, in which case this chapter does not apply. In addition, this chapter shall not apply to any municipal transportation system managed by a separate commission, the making of expenditures from proceeds of general obligation and revenue bond sales, or the expenditure of moneys derived from grants, gifts, bequests or devises for specified purposes.

Sec. 4. Section 35.33.020, chapter 7, Laws of 1965 as amended by section 2, chapter 95, Laws of 1969 ex. sess. and RCW 35.33.020 are each amended to read as follows:

The provisions of this chapter apply to cities of the first class which have a population of less than three hundred thousand, to all cities of the second and third classes, and to all towns, except those cities and towns which have adopted an ordinance under section 7 of this 1985 act providing for a biennial budget.

NEW SECTION. Sec. 5. This chapter applies to all cities of the first, second, and third classes and towns which have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget.

NEW SECTION. Sec. 6. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Clerk" includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title the officer may

be known in any city or town. However, for cities over three hundred thousand, "clerk" means the budget director as authorized under RCW 35.32A.020.

(2) "Department" includes each office, division, service, system, or institution of the city or town for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" includes the council, commission, or any other group of officials serving as the legislative body of a city or town.

(4) "Chief administrative officer" includes the mayor of cities or towns having a mayor-council form of government, the commissioners in cities or towns having a commission form of government, the manager, or any other city or town official designated by the charter or ordinances of such city or town under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager, or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal biennium" means the period from January 1 of each odd-numbered year through December 31 of the next succeeding even-numbered year.

(6) "Fund" and "funds" where clearly used to indicate the plural of "fund" means the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" where not used to indicate the plural of "fund" means money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined in this chapter, municipal accounting terms used in this chapter have the meaning prescribed by the state auditor pursuant to RCW 43.09.200.

NEW SECTION. Sec. 7. All first, second, and third class cities and towns are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance shall be enacted at least six months prior to commencement of the fiscal biennium and this chapter applies to all cities and towns which utilize a fiscal biennium budget. Cities and towns which establish a fiscal biennium budget are authorized to repeal such ordinance and provide for reversion to a fiscal year budget. The ordinance may only be repealed effective as of the conclusion of a fiscal biennium. However, the city or town shall comply with chapter 35.32A or 35.33 RCW, whichever the case may be, in developing and adopting the budget for the first fiscal year following repeal of the ordinance.

NEW SECTION. Sec. 8. On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal biennium, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other

than ad valorem taxation and of all expenditures required by the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the division of municipal corporations in the office of the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of the clerk's office. The chief administrative officers of the city or town shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties required by this section shall devolve upon the person next in charge of such department.

NEW SECTION. Sec. 9. All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor through the division of municipal corporations after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers.

NEW SECTION. Sec. 10. On or before the first business day in the third month prior to the beginning of the biennium of a city or town or at such other time as the city or town may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city or town shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city or town for the ensuing fiscal biennium, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal biennium, the estimated receipts for the current fiscal biennium, and the estimated receipts for the ensuing fiscal biennium, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal biennium. However, if the city or town was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' revenues to reflect actual and estimated receipts as if it had previously utilized a biennial budgetary process.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal biennium, the appropriations for the current fiscal biennium, and the estimated expenditures for the

ensuing fiscal biennium. However, if the city or town was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' expenditures to reflect actual and estimated levels as if it had previously utilized a biennial budgetary process. The expenditure section shall further set forth separately the salary or salary range for each office, position, or job classification together with the title or position designation thereof. However, salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached and made a part of the budget document.

NEW SECTION. Sec. 11. The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer. At least sixty days before the beginning of the city's or town's next fiscal biennium the chief administrative officer shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal biennium.

NEW SECTION. Sec. 12. (1) In every city or town, a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal biennium and shall contain the following:

- (a) An explanation of the budget document;
- (b) An outline of the recommended financial policies and programs of the city or town for the ensuing fiscal biennium;
- (c) A statement of the relation of the recommended appropriation to such policies and programs;
- (d) A statement of the reason for salient changes from the previous biennium in appropriation and revenue items; and
- (e) An explanation for any recommended major changes in financial policy.

(2) Prior to the final hearing on the budget, the legislative body or a committee thereof shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.

NEW SECTION. Sec. 13. Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once a week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal biennium has been filed with the clerk, that a copy thereof will be made available to any taxpayer who will call at the clerk's office therefor, that the legislative body of the city or town will meet on or before the first

Monday of the month next preceding the beginning of the ensuing fiscal biennium for the purpose of fixing the final budget, designating the date, time, and place of the legislative budget meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city or town if there is one, otherwise in a newspaper of general circulation in the city or town. If there is no newspaper of general circulation in the city or town, then notice may be made by posting in three public places fixed by ordinance as the official places for posting the city's or town's official notices.

NEW SECTION. Sec. 14. The legislative body shall meet on the day fixed by section 13 of this act for the purpose of fixing the final budget of the city or town at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's or town's fiscal biennium.

NEW SECTION. Sec. 15. Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, the legislative body shall make such adjustments and changes as it deems necessary or proper and, after determining the allowance in each item, department, classification, and fund, shall by ordinance adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor and to the association of Washington cities.

NEW SECTION. Sec. 16. The legislative authority of a city or town having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city or town ordinances. City or town ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city or town legislative authority,

procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city or town.

A complete copy of the budget modification as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor and to the association of Washington cities.

NEW SECTION. Sec. 17. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by law enacted since the last budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city or town legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

NEW SECTION. Sec. 18. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the budget, and if it is not one of the emergencies specifically enumerated in section 17 of this act, the city or town legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

The ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city or town.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

NEW SECTION. Sec. 19. All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest, and be called in the same manner as other registered warrants as prescribed in RCW 35.21.320.

NEW SECTION. Sec. 20. In adopting the final budget for any fiscal biennium, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made. However, no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature. In addition, all or any portion of the city's or town's outstanding registered warrants may be funded into bonds in any manner authorized by law.

NEW SECTION. Sec. 21. Notwithstanding the appropriations for any salary or salary range of any employee or employees adopted in a final budget, the legislative body of any city or town may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

NEW SECTION. Sec. 22. The division of municipal corporations in the office of the state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

NEW SECTION. Sec. 23. (1) The expenditures as classified and itemized in the final budget shall constitute the city's or town's appropriations for the ensuing fiscal biennium. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city or town, the expenditure of city or town funds or the incurring of current liabilities on behalf of the city or town shall be limited to the following:

(a) The total amount appropriated for each fund in the budget for the current fiscal biennium, without regard to the individual items contained therein, except that this limitation does not apply to wage adjustments authorized by section 21 of this act;

(b) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal periods pursuant to section 30 of this act;

(c) Funds received from the sale of bonds or warrants which have been duly authorized according to law;

(d) Funds received in excess of estimated revenues during the current fiscal biennium, when authorized by an ordinance amending the original budget; and

(e) Expenditures authorized by budget modification as provided by section 16 of this act and those required for emergencies, as authorized by sections 17 and 18 of this act.

(2) Transfers between individual appropriations within any one fund may be made during the current fiscal biennium by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as authorized in this section, may be made within the same fund regardless of the various offices, departments, or divisions of the city or town which may be affected.

(3) The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke, or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke, or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division, or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

NEW SECTION. Sec. 24. Liabilities incurred by any officer or employee of the city or town in excess of any budget appropriations shall not be a liability of the city or town. The clerk shall issue no warrant and the city or town legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

NEW SECTION. Sec. 25. Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued, it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

NEW SECTION. Sec. 26. At a time fixed by the city's or town's ordinance or city charter, not later than the first Monday in October of the second year of each fiscal biennium, the chief administrative officer shall

provide the city's or town's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current biennium, together with estimates submitted by the clerk under section 10 of this act. The city's or town's legislative body and the city's or town's administrative officer or the officer's designated representative shall consider the city's or town's total anticipated financial requirements for the ensuing fiscal biennium, and the legislative body shall determine and fix by ordinance the amount to be raised the first year of the biennium by ad valorem taxes. The legislative body shall review such information as is provided by the chief administrative officer and shall adopt an ordinance establishing the amount to be raised by ad valorem taxes during the second year of the biennium. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the county legislative authority as required by RCW 84.52.020.

NEW SECTION. Sec. 27. At such intervals as may be required by city charter or city or town ordinance, however, being not less than quarterly, the clerk shall submit to the city's or town's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal biennium to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

NEW SECTION. Sec. 28. Every city or town may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in sections 17 and 18 of this act. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in section 23 of this act. However, the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city or town at such time. Any moneys in the emergency fund at the end of the fiscal biennium shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

NEW SECTION. Sec. 29. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city or town, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as

the case may be, specifying the fund to which the withdrawn money shall be transferred.

NEW SECTION. Sec. 30. All appropriations in any current operating fund shall lapse at the end of each fiscal biennium. However, this shall not prevent payments in the following biennium upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment, and supplies or for personal or contractual services not completed or furnished by the end of the fiscal biennium, all of which have been properly budgeted and contracted for prior to the close of such fiscal biennium, but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by section 28 of this act, shall not lapse, but shall be carried forward from biennium to biennium until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal biennium shall be kept open for twenty days after the close of such fiscal biennium for the purpose of paying and recording claims for indebtedness incurred during such fiscal biennium; any claim presented after the twentieth day following the close of the fiscal biennium shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal biennium.

NEW SECTION. Sec. 31. Upon the conviction of any city or town official, department head, or other city or town employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city or town ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, the official or employee shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

NEW SECTION. Sec. 32. Sections 1 and 5 through 31 of this act shall constitute a new chapter in Title 35 RCW.

Sec. 33. Section 35A.33.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.33.020 are each amended to read as follows:

The provisions of this chapter apply to all code cities(~~(-PROVIDED, That)~~) except those which have adopted an ordinance under section 36 of this 1985 act providing for a biennial budget. In addition, this chapter shall

not apply to any municipal utility or enterprise for which separate budgeting provisions are made by general state law.

NEW SECTION. Sec. 34. This chapter applies to all code cities which have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget.

NEW SECTION. Sec. 35. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Clerk" includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title the officer may be known in any code city.

(2) "Department" includes each office, division, service, system, or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" includes the council, commission, or any other group of officials serving as the legislative body of a code city.

(4) "Chief administrative officer" includes the mayor of cities having a mayor-council plan of government, the commissioners in cities having a commission plan of government, the manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager, or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal biennium" means the period from January 1 of each odd-numbered year through December 31 of the next succeeding even-numbered year.

(6) "Fund" and "funds" where clearly used to indicate the plural of "fund" means the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" where not used to indicate the plural of "fund" means money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined in this chapter, municipal accounting terms used in this chapter have the meaning prescribed by the state auditor pursuant to RCW 43.09.200.

NEW SECTION. Sec. 36. All code cities are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance shall be enacted at least six months prior to commencement of the fiscal biennium and this chapter applies to all code cities which utilize a fiscal biennium budget. Code cities which establish a fiscal biennium budget are authorized to repeal such ordinance and provide for reversion to a fiscal year budget. The

ordinance may only be repealed effective as of the conclusion of a fiscal biennium. However, the city shall comply with chapter 35A.33 RCW in developing and adopting the budget for the first fiscal year following repeal of the ordinance.

NEW SECTION. Sec. 37. On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal biennium, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the division of municipal corporations in the office of the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of the clerk's office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties required by this section shall devolve upon the person next in charge of such department.

NEW SECTION. Sec. 38. All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor through the division of municipal corporations after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers.

NEW SECTION. Sec. 39. On or before the first business day in the third month prior to the beginning of the biennium of a city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal biennium, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal biennium, the estimated receipts for the current fiscal biennium, and the estimated receipts for the ensuing fiscal biennium, which shall include the amount to be raised

from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' revenues to reflect actual and estimated receipts as if it had previously utilized a biennial budgetary process.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal biennium, the appropriations for the current fiscal biennium, and the estimated expenditures for the ensuing fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' expenditures to reflect actual and estimated levels as if it had previously utilized a biennial budgetary process. The expenditure section shall further set forth separately the salary or salary range for each office, position, or job classification together with the title or position designation thereof. However, salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached and made a part of the budget document.

NEW SECTION. Sec. 40. The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer. At least sixty days before the beginning of the city's next fiscal biennium the chief administrative officer shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal biennium.

NEW SECTION. Sec. 41. (1) In every city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal biennium and shall contain the following:

- (a) An explanation of the budget document;
- (b) An outline of the recommended financial policies and programs of the city for the ensuing fiscal biennium;
- (c) A statement of the relation of the recommended appropriation to such policies and programs;
- (d) A statement of the reason for salient changes from the previous biennium in appropriation and revenue items; and
- (e) An explanation for any recommended major changes in financial policy.

(2) Prior to the final hearing on the budget, the legislative body or a committee thereof shall schedule hearings on the budget or parts thereof,

and may require the presence of department heads to give information regarding estimates and programs.

NEW SECTION. Sec. 42. Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once a week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal biennium has been filed with the clerk, that a copy thereof will be made available to any taxpayer who will call at the clerk's office therefor, that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal biennium for the purpose of fixing the final budget, designating the date, time, and place of the legislative budget meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city if there is one, otherwise in a newspaper of general circulation in the city. If there is no newspaper of general circulation in the city, then notice may be made by posting in three public places fixed by ordinance as the official places for posting the city's official notices.

NEW SECTION. Sec. 43. The legislative body shall meet on the day fixed by section 42 of this act for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal biennium.

NEW SECTION. Sec. 44. Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, the legislative body shall make such adjustments and changes as it deems necessary or proper and, after determining the allowance in each item, department, classification, and fund, shall by ordinance adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor and to the association of Washington cities.

NEW SECTION. Sec. 45. The legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal

biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city ordinances. City ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city.

A complete copy of the budget modification as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor and to the association of Washington cities.

NEW SECTION. Sec. 46. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by law enacted since the last budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

NEW SECTION. Sec. 47. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the budget, and if it is not one of the emergencies specifically enumerated in section 46 of this act, the city legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

The ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

NEW SECTION. Sec. 48. All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time,

there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest, and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110.

NEW SECTION. Sec. 49. In adopting the final budget for any fiscal biennium, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made. However, no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature. In addition, all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law.

NEW SECTION. Sec. 50. Notwithstanding the appropriations for any salary or salary range of any employee or employees adopted in a final budget, the legislative body of any city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

NEW SECTION. Sec. 51. The division of municipal corporations in the office of the state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

NEW SECTION. Sec. 52. (1) The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal biennium. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(a) The total amount appropriated for each fund in the budget for the current fiscal biennium, without regard to the individual items contained therein, except that this limitation does not apply to wage adjustments authorized by section 50 of this act;

(b) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal periods pursuant to section 59 of this act;

(c) Funds received from the sale of bonds or warrants which have been duly authorized according to law;

(d) Funds received in excess of estimated revenues during the current fiscal biennium, when authorized by an ordinance amending the original budget; and

(c) Expenditures authorized by budget modification as provided by section 45 of this act and those required for emergencies, as authorized by sections 46 and 47 of this act.

(2) Transfers between individual appropriations within any one fund may be made during the current fiscal biennium by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city legislative body. Notwithstanding the provisions of RCW 43.09-.210 or of any statute to the contrary, transfers, as authorized in this section, may be made within the same fund regardless of the various offices, departments, or divisions of the city which may be affected.

(3) The city legislative body, upon a finding that it is to the best interests of the city to decrease, revoke, or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke, or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division, or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

NEW SECTION. Sec. 53. Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

NEW SECTION. Sec. 54. Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued, it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

NEW SECTION. Sec. 55. At a time fixed by the city's ordinance or city charter, not later than the first Monday in October of the second year of each fiscal biennium, the chief administrative officer shall provide the

city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current biennium, together with estimates submitted by the clerk under section 39 of this act. The city's legislative body and the city's administrative officer or the officer's designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal biennium, and the legislative body shall determine and fix by ordinance the amount to be raised the first year of the biennium by ad valorem taxes. The legislative body shall review such information as is provided by the chief administrative officer and shall adopt an ordinance establishing the amount to be raised by ad valorem taxes during the second year of the biennium. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the county legislative authority as required by RCW 84.52.020.

NEW SECTION. Sec. 56. At such intervals as may be required by city charter or city ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal biennium to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

NEW SECTION. Sec. 57. Every city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in sections 46 and 47 of this act. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in section 52 of this act. However, the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the emergency fund at the end of the fiscal biennium shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

NEW SECTION. Sec. 58. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred.

NEW SECTION. Sec. 59. All appropriations in any current operating fund shall lapse at the end of each fiscal biennium. However, this shall not prevent payments in the following biennium upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment, and supplies or for personal or contractual services not completed or furnished by the end of the fiscal biennium, all of which have been properly budgeted and contracted for prior to the close of such fiscal biennium, but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by section 57 of this act, shall not lapse, but shall be carried forward from biennium to biennium until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal biennium shall be kept open for twenty days after the close of such fiscal biennium for the purpose of paying and recording claims for indebtedness incurred during such fiscal biennium; any claim presented after the twentieth day following the close of the fiscal biennium shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal biennium.

NEW SECTION. Sec. 60. Upon the conviction of any city official, department head, or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, the official or employee shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

NEW SECTION. Sec. 61. Sections 34 through 60 of this act shall constitute a new chapter in Title 35A RCW.

Sec. 62. Section 5, chapter 7, Laws of 1967 and RCW 35.32A.030 are each amended to read as follows:

The heads of all departments, divisions or agencies of the city government, including the library department, and departments headed by commissions or elected officials shall submit to the mayor estimates of revenues and necessary expenditures for the ensuing fiscal year in such detail, in such form and at such time as the mayor shall prescribe.

The budget director shall assemble all estimates of revenues; necessary departmental expenditures; interest and redemption requirements for any city debt; and other pertinent budgetary information as may be required by uniform regulations of the state auditor; and, under the direction of the mayor, prepare a proposed budget for presentation to the city council.

The revenue estimates shall be based primarily on the collection experience of the first six months of the current fiscal year and the last six months of the preceding fiscal year and shall not include revenue from any source in excess of the amount so collected unless it shall be reasonably anticipated that such excess amounts will in fact be realized. The estimated revenues shall ~~((be only from))~~ include sources previously established by law(;) and unencumbered fund balances estimated to be available at the close of the current fiscal year. The estimated expenditures in the proposed budget shall, in no event, exceed such estimated revenues: PROVIDED, That the mayor may recommend expenditures exceeding the estimated revenues when accompanied by proposed legislation to raise at least an equivalent amount of additional revenue.

The mayor shall submit the proposed budget to the city council not later than ninety days prior to the beginning of the ensuing fiscal year.

The budget director shall cause sufficient copies of the proposed budget to be prepared and made available to all interested persons and shall cause a summary of the proposed budget to be published at least once in the city official newspaper.

Sec. 63. Section 6, chapter 7, Laws of 1967 and RCW 35.32A.040 are each amended to read as follows:

The city council shall forthwith consider the proposed budget submitted by the mayor and shall cause such public hearings to be scheduled on two or more days to allow all interested persons to be heard. Such hearings shall be announced by public notice published in the city official newspaper as well as provided to general news media.

The city council may insert new expenditure allowances, increase or decrease expenditure allowances recommended by the mayor, or revise estimates of revenues subject to the same restrictions as are herein imposed on the mayor; but may not adopt a budget in which the total expenditure allowances exceed the total estimated revenues as defined in RCW 35.32A-.030 for the ensuing fiscal year.

Sec. 64. Section 8, chapter 7, Laws of 1967 as amended by section 20, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.32A.060 are each amended to read as follows:

Every city having a population of over three hundred thousand may maintain an emergency fund, which fund balance shall not exceed thirty-seven and one-half cents per thousand dollars of assessed value. Such fund shall be maintained by an annual budget allowance. When the necessity

therefor arises transfers may be made to the emergency fund from any tax-supported fund except bond interest and redemption funds.

The city council by an ordinance approved by two-thirds of all of its members may authorize the expenditure of sufficient money from the emergency fund, or other designated funds, to meet the expenses or obligations:

(1) Caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, act of God, act of the public enemy or any other such happening that could not have been anticipated; or

(2) For the immediate preservation of order or public health or for the restoration to a condition of usefulness of public property the usefulness of which has been destroyed by accident; or

(3) In settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of a public utility owned by the city; or

(4) To meet mandatory expenditures required by laws enacted since the last budget was adopted.

The city council by an ordinance approved by three-fourths of all its members may appropriate from the emergency fund, or other designated funds, an amount sufficient to meet the actual necessary expenditures of the city for which insufficient or no appropriations have been made due to causes which could not reasonably have been foreseen at the time of the making of the budget.

An ordinance authorizing an emergency expenditure shall become effective immediately upon being approved by the mayor or upon being passed over his veto as provided by the city charter.

Passed the House April 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 176

[House Bill No. 77]

FERRIES—1977 BOND AUTHORIZATION—HIGH-SPEED PASSENGER-ONLY PERFORMANCE REQUIREMENTS DELETED

AN ACT Relating to ferry system bonds; and amending RCW 47.60.560.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 360, Laws of 1977 ex. sess. as amended by section 336, chapter 7, Laws of 1984 and RCW 47.60.560 are each amended to read as follows:

In order to provide funds necessary for vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements for the Washington state ferries, there shall be issued

and sold upon the request of the department general obligation bonds of the state of Washington in the sum of one hundred thirty-five million dollars or such amount thereof as may be required (together with other funds available therefor). If the state of Washington is able to obtain matching funds from the urban mass transportation administration or other federal government agencies for the acquisition of ~~((four-high-speed;))~~ passenger-only vessels capable of operating as an integral part of the Washington state ferries on Puget Sound and the Straits of Juan de Fuca, a sufficient amount of the proceeds of the bonds authorized herein shall be used to pay the state's share of the acquisition cost of the ~~((high-speed;))~~ passenger-only vessels. ~~((The high-speed, passenger-only vessels shall be of existing design currently manufactured in the United States, shall have a normal cruising speed in excess of forty knots, and shall have a passenger capacity of two hundred fifty to three hundred fifty passengers;))~~ Upon request being made by the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be necessary for the orderly progress in constructing the ferries.

Passed the House February 11, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 177

[House Bill No. 80]

STATE HIGHWAY ROUTES REVISED

AN ACT Relating to state highway routes; amending RCW 47.17.055, 47.17.060, 47.17-.455, and 47.17.575; adding a new section to chapter 47.17 RCW; and repealing RCW 47.17-.281 and 47.17.867.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 51, Laws of 1970 ex. sess. as amended by section 1, chapter 180, Laws of 1983 and RCW 47.17.055 are each amended to read as follows:

A state highway to be known as state route number 12 is established as follows:

Beginning at a junction with state route number 101 at Aberdeen, thence easterly by way of Montesano and Elma to a junction with state route number 8 in the vicinity of Elma; also

From that junction with state route number 8 in the vicinity of Elma, thence southeasterly to a junction with state route number 5 in the vicinity north of Centralia; also

Beginning at a junction with state route number 5 in the vicinity south of Chehalis, thence easterly by way of Morton and White Pass to a junction with state route number 410 northwest of Yakima; also

From that junction with state route number 410 northwest of Yakima, thence southeasterly to a junction with state route number 82 at Yakima; also

Beginning at a junction with state route number ~~((82 near Prosser))~~ 182 near Pasco, thence southeasterly by the most feasible route by way of ~~((Pasco and))~~ Wallula to Walla Walla, thence northerly by way of Dayton to a junction with state route number 127 at Dodge; also

From that junction with state route number 127 in the vicinity of Dodge, thence easterly by the most feasible route by way of Pomeroy and Clarkston to the Washington-Idaho boundary line.

Sec. 2. Section 13, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.060 are each amended to read as follows:

A state highway to be known as state route number 14 is established as follows:

Beginning at a junction with state route number 5 at Vancouver, thence easterly by way of Stevenson to a junction with state route number 97 in the vicinity of Maryhill; also

Beginning at a junction with state route number 97 in the vicinity of Maryhill, thence easterly along the north bank of the Columbia river to a junction with state route number 82 in the vicinity of Plymouth~~((thence northeasterly to a junction with state route number 12 in the vicinity of Kennewick))~~.

Sec. 3. Section 92, chapter 51, Laws of 1970 ex. sess. as amended by section 135, chapter 7, Laws of 1984 and RCW 47.17.455 are each amended to read as follows:

A state highway to be known as state route number 240 is established as follows:

Beginning at a junction with state route number 24 in the vicinity east of Cold Creek, thence southeasterly by the most feasible route across the Atomic Energy Commission Reservation to a junction with state route number 224 at Richland; also

From that junction with state route number 224 at Richland, thence ~~((southeasterly))~~ southerly to a ~~((wye))~~ junction with state route number ~~((+2))~~ 182 at Richland; also

From a junction with state route number 182 at Richland southeasterly to a junction with state route number 395 at Kennewick. The secretary may enter into negotiations with appropriate federal agencies to secure right of way for the highway over and across the Atomic Energy Commission Reservation.

Sec. 4. Section 116, chapter 51, Laws of 1970 ex. sess. as amended by section 13, chapter 33, Laws of 1979 ex. sess. and RCW 47.17.575 are each amended to read as follows:

A state highway to be known as state route number 395 is established as follows:

Beginning at ~~((the Washington-Oregon boundary line, thence northeasterly to a junction with state route number 12 at Wallula))~~ a junction with state route number 82 at Kennewick, northerly to a junction with state route number 182 at Pasco; also

From a junction with state route number ~~((+2))~~ 182 at Pasco, thence northeasterly by way of the vicinity of Mesa and Connell to a junction with state route number 90 at Ritzville; also

From a junction with state route number 2 in the vicinity north of Spokane, thence northerly by way of the vicinity of Colville and Kettle Falls to the international boundary line in the vicinity of Laurier.

NEW SECTION. Sec. 5. There is added to chapter 47.17 RCW a new section to read as follows:

A state highway to be known as state route number 730 is established as follows:

Beginning at the Washington-Oregon boundary line, thence northeasterly to a junction with state route number 12 south of Wallula.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 5, chapter 151, Laws of 1973 1st ex. sess., section 7, chapter 33, Laws of 1979 ex. sess. and RCW 47.17.281; and
- (2) Section 13, chapter 63, Laws of 1975 and RCW 47.17.867.

Passed the House February 11, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 178

[Substitute House Bill No. 86]

DEPARTMENT OF TRANSPORTATION—CIVIL SERVICE EXEMPT POSITIONS MODIFIED

AN ACT Relating to department of transportation personnel exempted from civil service; and amending RCW 41.06.079.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 151, Laws of 1977 ex. sess. and RCW 41.06.079 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to

the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, ((and)) one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the state personnel board pursuant to the provisions of RCW 41.06.070(26), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law.

Passed the House April 12, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 179

[House Bill No. 132]

COUNTY TAX ON NONRESIDENTS OF THE STATE EMPLOYED IN THE COUNTY—REPEAL

AN ACT Relating to the local option tax on nonresident commuters; repealing RCW 82.14C.010, 82.14C.020, 82.14C.030, and 82.14C.900; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 248, Laws of 1984 and RCW 82.14C.010;
- (2) Section 2, chapter 248, Laws of 1984 and RCW 82.14C.020;
- (3) Section 3, chapter 248, Laws of 1984 and RCW 82.14C.030; and
- (4) Section 5, chapter 248, Laws of 1984 and RCW 82.14C.900.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect June 30, 1985.

Passed the House March 1, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 180

[House Bill No. 152]

COMMUNITY COLLEGE VENDOR PAYMENTS—STATE TREASURER ADVANCE TO COMMUNITY COLLEGES INCREASED

AN ACT Relating to community college vendor payments; and amending RCW 28B.50.143.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 331, Laws of 1977 ex. sess. as amended by section 21, chapter 151, Laws of 1979 and RCW 28B.50.143 are each amended to read as follows:

In order that each community college treasurer appointed in accordance with RCW 28B.50.142 may make vendor payments, the state treasurer will honor warrants drawn by each community college providing for one initial advance on September 1, 1977, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to ~~((ten))~~ seventeen percent of each institution's average monthly allotment for such budgeted biennium expenditures as certified by the office of financial management, and at the conclusion of each such initial month, and for each succeeding month of any biennium, the state treasurer will reimburse each institution for each expenditure incurred and reported monthly by each community college treasurer in accordance with chapter 43.83 RCW: PROVIDED, That the reimbursement to each institution for actual expenditures incurred in the final month of each biennium shall be less the initial advance.

Passed the House February 18, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 181

[Substitute House Bill No. 177]

VETERANS—HALL RENTAL FINANCIAL ASSISTANCE INCREASED—FUND NOMENCLATURE MODIFIED

AN ACT Relating to veterans; and amending RCW 73.04.080 and 73.08.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 64, Laws of 1909 as last amended by section 7, chapter 180, Laws of 1947 and RCW 73.04.080 are each amended to read as follows:

Any post, camp or chapter of any national organization of veterans now, or which may hereafter be, chartered by an act of congress which has qualified to accept relief from the ~~((indigent soldiers' relief))~~ veteran's assistance fund of any county may draw upon said county fund for the payment of the rent of its regular meeting place: PROVIDED, That no post, camp or chapter shall be allowed to draw on such fund for this purpose to exceed ~~((the sum of one hundred eighty dollars))~~ a reasonable amount approved by the county legislative authority in any one year, or in any amount for hall rental where said post, camp or chapter is furnished quarters by the state or by any municipality.

Before such claims are ordered paid by the county ~~((commissioners))~~ legislative authority, the commander or authorized disbursing officer of such posts, camps or chapters shall file a proper claim each month with the county auditor for such rental.

Sec. 2. Section 7, page 210, Laws of 1888 as last amended by section 6, chapter 295, Laws of 1983 and RCW 73.08.080 are each amended to read as follows:

The legislative authorities of the several counties in this state shall levy, in addition to the taxes now levied by law, a tax in a sum equal to the amount which would be raised by not less than one and one-eighth cents per thousand dollars of assessed value, and not greater than twenty-seven cents per thousand dollars of assessed value against the taxable property of their respective counties, to be levied and collected as now prescribed by law for the assessment and collection of taxes, for the purpose of creating the veteran's ~~((relief))~~ assistance fund for the relief of honorably discharged veterans as defined in RCW 41.04.005 and the indigent wives, husbands, widows, widowers and minor children of such indigent or deceased veterans, to be disbursed for such relief by such county legislative authority: PROVIDED, That if the funds on deposit, less outstanding warrants, residing in the veteran's ~~((relief))~~ assistance fund on the first Tuesday in September exceed the expected yield of one and one-eighth cents per thousand dollars of assessed value against the taxable property of the county, the county legislative authority may levy a lesser amount: PROVIDED FURTHER, That the costs incurred in the administration of said veteran's ~~((relief))~~ assistance fund shall be computed by the county treasurer not less than annually and such amount may then be transferred from the veteran's ~~((relief))~~ assistance fund as herein provided for to the county current expense fund.

The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

Passed the House April 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 182

[House Bill No. 479]

PERMANENTLY DISABLED PERSONS—DEPARTMENT OF LICENSING IDENTIFICATION SERVES AS STATE PARK PASS AND AN IN-LIEU FISHING LICENSE

AN ACT Relating to disabled persons; and amending RCW 43.51.055 and 77.32.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 330, Laws of 1977 ex. sess. as amended by section 1, chapter 131, Laws of 1979 ex. sess. and RCW 43.51.055 are each amended to read as follows:

(1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section shall, unless renewed, expire on January 1 of the next year following the year in which it was issued. Any application for renewal of a senior citizen's pass shall, for purposes of the financial eligibility requirements of this section, be treated as an original application.

(4) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that

disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW (~~(71.20.015)~~) 71.20.016 and 72.33.020 due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(5) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(6) Any resident of Washington who is a veteran, is at least sixty-two years of age and has a service-connected disability of at least thirty percent, shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to free use of any campsite within any state park, and (b) entitle such person to free admission to any state park.

~~((6))~~ (7) All passes issued pursuant to this section shall be valid at all parks any time during the year: PROVIDED, That the pass shall not be valid for admission to concessionaire operated facilities.

~~((7))~~ (8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

~~((8))~~ (9) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a (~~senior citizen's~~) pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass.

Sec. 2. Section 77.32.230, chapter 36, Laws of 1955 as last amended by section 1, chapter 280, Laws of 1983 and RCW 77.32.230 are each amended to read as follows:

(1) A person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability and who has been a resident for five years may receive upon application a state hunting and fishing license free of charge.

(2) A person seventy years of age or older who has been a resident for ten years or a blind person or a physically handicapped person confined to a wheelchair may receive upon application a fishing license free of charge.

(3) A blind person or a physically handicapped person confined to a wheelchair who has been issued a card for a permanent disability under RCW 46.16.381 may use that card in place of a fishing license unless tags, permits, stamps, or punchcards are required by this chapter.

(4) A fishing license is not required for persons under the age of sixteen.

~~((4))~~ (5) Tags, permits, stamps, and punchcards required by this chapter shall be purchased separately by persons receiving a free license.

Passed the House March 12, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 183

[Engrossed House Bill No. 492]

CHILDREN—DEPENDENCY PROCEEDINGS—CHILD ABUSE—PARENTS AND CHILDREN TO BE ADVISED OF RIGHTS

AN ACT Relating to child abuse and neglect proceedings; adding new sections to chapter 26.44 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this act, provided that nothing contained in this act shall cause any delay in protective custody action.

NEW SECTION. Sec. 2. Whenever a dependency petition is filed by the department of social and health services, it shall advise the parents, and any child over the age of twelve who is subject to the dependency action, of their respective rights under RCW 13.34.090. The parents and the child shall be provided a copy of the dependency petition and a copy of any court orders which have been issued. This advice of rights under RCW 13.34.090 shall be in writing. The department caseworker shall also make reasonable efforts to advise the parent and child of these same rights orally.

NEW SECTION. Sec. 3. If a child has been taken into custody by law enforcement pursuant to RCW 26.44.050, the law enforcement agency shall leave a written statement with a parent or in the residence of the parent if no parent is present. The statement shall give the reasons for the removal of the child from the home and the telephone number of the child protective services office in the parent's jurisdiction.

NEW SECTION. Sec. 4. If a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050, the child protective services worker shall take reasonable steps to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the child's placement. Notice may be given by any means reasonably certain of notifying the parents, including but not limited to, written, telephonic, or in-person oral notification. If the initial notification is provided by a means other than writing, the information shall also be provided to the parent in writing as soon thereafter as possible.

NEW SECTION. Sec. 5. Whenever the child protective services worker is required to notify parents and children of their basic rights and other specific information as set forth in sections 2 through 4 of this act, the child protective services worker shall also make a reasonable effort to notify the noncustodial parent of the same information in a timely manner.

NEW SECTION. Sec. 6. Sections 2 through 5 of this act are each added to chapter 26.44 RCW.

Passed the House April 16, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 184

[Engrossed House Bill No. 914]

TIMBER TAX DISTRIBUTION—SCHOOL DISTRICT MAINTENANCE AND OPERATIONS LEVY IN TIMBER COUNTIES

AN ACT Relating to timber tax distributions; amending RCW 84.33.081 and 84.52.080; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9, chapter 204, Laws of 1984 and RCW 84.33.081 are each amended to read as follows:

(1) On the last business day of the second month of each calendar quarter, the state treasurer shall distribute from the timber tax distribution account to each county the amount of tax collected on behalf of each county under RCW 84.33.051, less each county's proportionate share of appropriations for collection and administration activities under RCW 84.33.051, and

shall transfer to the state general fund the amount of tax collected on behalf of the state under RCW 84.33.041, less the state's proportionate share of appropriations for collection and administration activities under RCW 84-.33.041. The county treasurer shall deposit moneys received under this section in a county timber tax account which shall be established by each county. Following receipt of moneys under this section, the county treasurer shall make distributions from any moneys available in the county timber tax account to taxing districts in the county, except the state, under subsections (2) through (4) of this section.

(2) From moneys available, there first shall be a distribution to each taxing district having debt service payments due during the calendar year, based upon bonds issued under authority of a vote of the people conducted pursuant to RCW 84.52.056 and based upon excess levies for a capital project fund authorized pursuant to RCW 84.52.053, of an amount equal to the timber assessed value of the district multiplied by the tax rate levied for payment of the debt service and capital projects: PROVIDED, That in respect to levies for a debt service or capital project fund authorized before July 1, 1984, the amount allocated shall not be less than an amount equal to the same percentage of such debt service or capital project fund represented by timber tax allocations to such payments in calendar year 1984. Distribution under this subsection (2) shall be used only for debt service and capital projects payments. The distribution under this subsection shall be made as follows: One-half of such amount shall be distributed in the first quarter of the year and one-half shall be distributed in the third quarter of the year.

(3) From the moneys remaining after the distributions under subsection (2) of this section, the county treasurer shall distribute to each school district an amount equal to one-half of the timber assessed value of the district or eighty percent of the timber roll of such district in calendar year 1983 as determined under this chapter, whichever is greater, multiplied by the tax rate, if any, levied by the district under RCW 84.52.052 or 84.52-.053 for purposes other than debt service payments and capital projects supported under subsection (2) of this section. The distribution under this subsection shall be made as follows: One-half of such amount shall be distributed in the first quarter of the year and one-half shall be distributed in the third quarter of the year.

(4) After the distributions directed under subsections (2) and (3) of this section, if any, each taxing district shall receive an amount equal to the timber assessed value of the district multiplied by the tax rate, if any, levied as a regular levy of the district or as a special levy not included in subsection (2) or (3) of this section.

(5) If there are insufficient moneys in the county timber tax account to make full distribution under subsection (4) of this section, the county treasurer shall multiply the amount to be distributed to each taxing district under that subsection by a fraction. The numerator of the fraction is the

county timber tax account balance before making the distribution under that subsection. The denominator of the fraction is the account balance which would be required to make full distribution under that subsection.

(6) After making the distributions under subsections (2) through (4) of this section in the full amount indicated for the calendar year, the county treasurer shall place any excess revenue up to twenty percent of the total distributions made for the year under subsections (2) through (4) of this section in a reserve status until the beginning of the next calendar year. Any moneys remaining in the county timber tax account after this amount is placed in reserve shall be distributed to each taxing district in the county in the same proportions as the distributions made under subsection (4) of this section.

Sec. 2. Section 84.52.080, chapter 15, Laws of 1961 as last amended by section 14, chapter 204, Laws of 1984 and RCW 84.52.080 are each amended to read as follows:

(1) The county assessor shall extend the taxes upon the tax rolls in the form herein prescribed. The rate percent necessary to raise the amounts of taxes levied for state and county purposes, and for purposes of taxing districts coextensive with the county, shall be computed upon the assessed value of the property of the county; the rate percent necessary to raise the amount of taxes levied for any taxing district within the county shall be computed upon the assessed value of the property of the district; all taxes assessed against any property shall be added together and extended on the rolls in a column headed consolidated or total tax. In extending any tax, whenever it amounts to a fractional part of a cent greater than five mills it shall be made one cent, and whenever it amounts to five mills or less than five mills it shall be dropped. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district which has classified or designated forest land under chapter 84.33 RCW, other than the state, the county assessor shall add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property: PROVIDED, That for school districts maintenance and operations levies only one-half of the district's timber assessed value or eighty percent of the timber roll of such district in calendar year 1983 as determined under chapter 84.33 RCW, whichever is greater, shall be added.

(3) Upon the completion of such tax extension, it shall be the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I,, assessor of county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the

real and personal property in the county of for the year one thousand nine hundred and

Witness my hand this day of, 19...

....., County Assessor

(4) The county assessor shall deliver said tax rolls to the county treasurer on or before the fifteenth day of December, taking his receipt therefor, and at the same time the county assessor shall provide the county auditor with an abstract of the tax rolls showing the total amount of taxes collectible in each of the taxing districts.

NEW SECTION. Sec. 3. Section 1 of this act applies to distributions beginning in 1986, and thereafter.

NEW SECTION. Sec. 4. Section 2 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, and shall be effective for taxes levied for collection in 1986 and thereafter.

Passed the House April 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 185

[Substitute House Bill No. 52]

HUMAN RIGHTS COMMISSION—ENFORCEMENT OF ORDERS MODIFIED—
JURISDICTION OF COMMISSION MODIFIED

AN ACT Relating to the human rights commission; amending RCW 49.60.010, 49.60.040, 49.60.050, 49.60.060, 49.60.070, 49.60.080, 49.60.090, 49.60.100, 49.60.110, 49.60.120, 49.60.130, 49.60.140, 49.60.150, 49.60.160, 49.60.170, 49.60.180, 49.60.190, 49.60.210, 49.60.225, 49.60.226, 49.60.230, 49.60.240, 49.60.250, 49.60.260, 49.60.270, 49.60.310, 49.60.320, and 49.44.090; adding a new section to chapter 49.60 RCW; adding a new section to chapter 34.12 RCW; adding new sections to chapter 43.131 RCW; and repealing RCW 49.60.050, 49.60.051, 49.60.060, 49.60.070, 49.60.080, 49.60.090, 49.60.100, 49.60.110, 49.60.120, 49.60.130, 49.60.140, 49.60.150, 49.60.160, 49.60.170, 49.60.226, 49.60.230, 49.60.240, 49.60.250, 49.60.260, 49.60.270, 49.60.280, 49.60.310, and 49.60.320.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 183, Laws of 1949 as last amended by section 1, chapter 214, Laws of 1973 1st ex. sess. and RCW 49.60.010 are each amended to read as follows:

This chapter shall be known as the "law against discrimination". It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against

any of its inhabitants because of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical handicap are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical handicap; and the ((board)) commission established hereunder is hereby given general jurisdiction and power for such purposes.

Sec. 2. Section 3, chapter 183, Laws of 1949 as last amended by section 3, chapter 127, Laws of 1979 and RCW 49.60.040 are each amended to read as follows:

As used in this chapter:

"Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

"Commission" means the Washington state human rights commission;

"Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

"Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

"Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

"Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

"National origin" includes "ancestry";

"Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, or with any sensory, mental,

or physical handicap, or a blind or deaf person using a trained dog guide, to be treated as not welcome, accepted, desired, or solicited;

"Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

"Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

"Real estate transaction" includes the sale, exchange, purchase, rental, or lease of real property((-));

"Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

Sec. 3. Section 2, chapter 270, Laws of 1955 as last amended by section 9, chapter 338, Laws of 1981 and RCW 49.60.050 are each amended to read as follows:

There is created the "Washington state (~~(board against discrimination)~~) human rights commission," which shall be composed of five members to be appointed by the governor with the advice and consent of the senate, one of whom shall be designated as (~~(chairman)~~) chairperson by the governor.

*Sec. 4. Section 3, chapter 270, Laws of 1955 and RCW 49.60.060 are each amended to read as follows:

One of the original members of the (~~(board)~~) commission shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom (~~(he)~~) the individual succeeds.

A member shall be eligible for reappointment.

A vacancy in the (~~(board)~~) commission shall be filled within thirty days, the remaining members to exercise all powers of the (~~(board)~~) commission.

On or after the effective date of this 1985 act, vacancies shall be filled by the governor so as to guarantee, to the extent possible, that the membership of the commission is representative of the various geographical areas of the state.

Any member of the (~~(board)~~) commission may be removed by the governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

*Sec. 4 was partially vetoed, see message at end of chapter.

Sec. 5. Section 4, chapter 270, Laws of 1955 as last amended by section 98, chapter 287, Laws of 1984 and RCW 49.60.070 are each amended to read as follows:

Each member of the (~~(board)~~) commission shall be compensated in accordance with RCW 43.03.250 and, while in session or on official business, shall receive reimbursement for travel expenses incurred during such time in accordance with RCW 43.03.050 and 43.03.060.

Sec. 6. Section 5, chapter 270, Laws of 1955 and RCW 49.60.080 are each amended to read as follows:

The (~~(board)~~) commission shall adopt an official seal, which shall be judicially noticed.

Sec. 7. Section 6, chapter 270, Laws of 1955 as amended by section 6, chapter 37, Laws of 1957 and RCW 49.60.090 are each amended to read as follows:

The principal office of the ((board)) commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state, and may establish such district offices as it deems necessary.

Sec. 8. Section 7, chapter 270, Laws of 1955 as amended by section 74, chapter 75, Laws of 1977 and RCW 49.60.100 are each amended to read as follows:

The ((board)) commission, at the close of each fiscal year, shall report to the governor, describing the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, the recommendations it has issued, and the other work performed by it, and shall make such recommendations for further legislation as may appear desirable. The ((board)) commission may present its reports to the legislature; the ((board's)) commission's reports shall be made available upon request.

Sec. 9. Section 5, chapter 183, Laws of 1949 and RCW 49.60.110 are each amended to read as follows:

The ((board)) commission shall formulate policies to effectuate the purposes of this chapter and may make recommendations to agencies and officers of the state or local subdivisions of government in aid of such policies and purposes.

Sec. 10. Section 8, chapter 270, Laws of 1955 as last amended by section 4, chapter 214, Laws of 1973 1st ex. sess. and RCW 49.60.120 are each amended to read as follows:

The ((board)) commission shall have the functions, powers and duties:

(1) To appoint an executive secretary and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To obtain upon request and utilize the services of all governmental departments and agencies.

(3) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this chapter, and the policies and practices of the ((board)) commission in connection therewith.

(4) To receive, investigate, and pass upon complaints alleging unfair practices as defined in this chapter (~~because of sex, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap~~).

(5) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap.

(6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.

(7) To cooperate and act jointly or by division of labor with the United States or other states, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.

(8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

Sec. 11. Section 9, chapter 270, Laws of 1955 as last amended by section 146, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 49.60.130 are each amended to read as follows:

The ((board)) commission has power to create such advisory agencies and conciliation councils, local, regional, or state-wide, as in its judgment will aid in effectuating the purposes of this chapter. The ((board)) commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the ((board)) commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the ((board)) commission may recommend to the appropriate state agency.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the ((board)) commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The ((board)) commission may use organizations specifically experienced in dealing with questions of discrimination.

Sec. 12. Section 10, chapter 270, Laws of 1955 and RCW 49.60.140 are each amended to read as follows:

The ((board)) commission has power to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production

for examination of any books or papers relating to any matter under investigation or in question before the ((board)) commission. The ((board)) commission may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations and other process or papers of the ((board)) commission, its member, agent, or agency, either personally or by registered mail, return receipt requested, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The return post office receipt, when service is by registered mail, shall be proof of service of the same.

Sec. 13. Section 11, chapter 270, Laws of 1955 and RCW 49.60.150 are each amended to read as follows:

No person shall be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to the subpoena of the ((board)) commission or of any individual member, on the ground that the testimony or evidence required of ((him)) the person may tend to incriminate ((him)) or subject ((him)) the person to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which ((he)) the person is compelled, after having claimed ((his)) the privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

Sec. 14. Section 12, chapter 270, Laws of 1955 and RCW 49.60.160 are each amended to read as follows:

In case of contumacy or refusal to obey a subpoena issued to any person, the superior court of any county within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the ((board)) commission shall have jurisdiction to issue to such person an order requiring such person to appear before the ((board)) commission, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

Sec. 15. Section 13, chapter 270, Laws of 1955 and RCW 49.60.170 are each amended to read as follows:

Witnesses before the ((board)) commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of this state. Witnesses whose depositions are taken and the person taking the same shall be entitled to same fees as are paid for like services in the courts of the state.

Sec. 16. Section 9, chapter 37, Laws of 1957 as last amended by section 6, chapter 214, Laws of 1973 1st ex. sess. and RCW 49.60.180 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of (~~(such person's)~~) age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved.

(2) To discharge or bar any person from employment because of (~~(such person's)~~) age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of (~~(such person's)~~) age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap: PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the (~~(board)~~) commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes.

(4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

Sec. 17. Section 10, chapter 37, Laws of 1957 as last amended by section 8, chapter 214, Laws of 1973 1st ex. sess. and RCW 49.60.190 are each amended to read as follows:

It is an unfair practice for any labor union or labor organization:

(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap.

(2) To expel from membership any person because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap.

(3) To discriminate against any member, employer, (~~(or)~~) employee, or other person to whom a duty of representation is owed because of age, sex,

marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap.

Sec. 18. Section 12, chapter 37, Laws of 1957 and RCW 49.60.210 are each amended to read as follows:

It is an unfair practice for any employer, employment agency, ~~((or))~~ labor union, or other person to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a charge, testified, or assisted in any proceeding under this chapter.

Sec. 19. Section 7, chapter 167, Laws of 1969 ex. sess. as last amended by section 11, chapter 127, Laws of 1979 and RCW 49.60.225 are each amended to read as follows:

When a determination has been made under RCW 49.60.250 that an unfair practice involving real property has been committed, the ~~((board or its successor))~~ commission may, in addition to other relief authorized by RCW 49.60.250, award the complainant up to one thousand dollars for loss of the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.226, as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap. Enforcement of the order and appeal therefrom by the complainant or respondent shall be made as provided in RCW 49.60.260 and 49.60.270.

Sec. 20. Section 8, chapter 167, Laws of 1969 ex. sess. and RCW 49.60.226 are each amended to read as follows:

The ~~((board against discrimination or its successor))~~ commission and units of local government administering ordinances with provisions similar to the real estate provisions of the law against discrimination are authorized and directed to enter into cooperative agreements or arrangements for receiving and processing complaints so that duplication of functions shall be minimized and multiple hearings avoided. No complainant may secure relief from more than one instrumentality of state, or local government, nor shall any relief be granted by any state or local instrumentality if relief has been granted or proceedings are continuing in any federal agency, court, or instrumentality, unless such proceedings have been deferred pending state action.

Sec. 21. Section 15, chapter 270, Laws of 1955 as amended by section 16, chapter 37, Laws of 1957 and RCW 49.60.230 are each amended to read as follows:

Who may file a complaint:

(1) Any person claiming to be aggrieved by an alleged unfair practice may, ~~((by himself))~~ personally or by his or her attorney, make, sign, and file with the ~~((board))~~ commission a complaint in writing under oath. The

complaint shall state the name and address of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the ((board)) commission.

(2) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the ((board)) commission may issue a complaint.

(3) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the ((board)) commission a written complaint under oath asking for assistance by conciliation or other remedial action.

Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination.

Sec. 22. Section 16, chapter 270, Laws of 1955 as last amended by section 1, chapter 259, Laws of 1981 and RCW 49.60.240 are each amended to read as follows:

After the filing of any complaint, the ((chairman)) chairperson of the ((board)) commission shall refer it to the appropriate section of the ((board's)) commission's staff for prompt investigation and ascertainment of the facts alleged in the complaint. The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of said findings shall be furnished to the complainant and to the person named in such complaint, hereinafter referred to as the respondent.

If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the ((board's)) commission's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation and persuasion.

If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the ((board)) commission setting forth the terms of said agreement. No order shall be entered by the ((board)) commission at this stage of the proceedings except upon such written agreement.

If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof furnished to the complainant and the respondent.

Sec. 23. Section 17, chapter 270, Laws of 1955 as last amended by section 1, chapter 293, Laws of 1983 and RCW 49.60.250 are each amended to read as follows:

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to

the ((~~chairman~~)) chairperson of the commission. The ((~~chairman~~)) chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall ((~~he~~)) the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent ((~~may~~)) shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed one thousand dollars, and including a requirement for report of the matter on compliance.

(6) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.04.130 or 34.04.133, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

(7) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

~~((7))~~ (8) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

~~((8))~~ (9) The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure.

Sec. 24. Section 21, chapter 37, Laws of 1957 as last amended by section 3, chapter 259, Laws of 1981 and RCW 49.60.260 are each amended to read as follows:

(1) The ~~((board))~~ commission shall petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business~~((;))~~ for the enforcement of any final order which is not complied with and is issued by the commission or an administrative law judge under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court ~~((a transcript of the entire record of the proceedings, including the pleadings and testimony upon which such order was made and the finding and orders of the administrative law judge))~~ the final order sought to be enforced. Within five days after filing such petition in court, the ~~((board))~~ commission shall cause a notice of the petition to be sent by registered mail to all parties or their representatives.

(2) From the time the petition is filed, the court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to ~~((issue such orders and))~~ grant such ~~((relief by injunction or otherwise, including))~~ temporary relief~~((;))~~ or restraining order as it deems just and suitable ~~((and to make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part any order of the board or administrative law judge.~~

~~((2) The findings of the administrative law judge as to the facts, if supported by substantial and competent evidence shall be conclusive. The court, upon its own motion or upon motion of either of the parties to the proceeding, may permit each party to introduce such additional evidence as the court may believe necessary to a proper decision of the cause)).~~

(3) If the petition shows that there is a final order issued by the commission or administrative law judge under RCW 49.60.240 or 49.60.250 and that the order has not been complied with in whole or in part, the court shall issue an order directing the person who is alleged to have not complied with the administrative order to appear in court at a time designated in the order, not less than ten days from the date thereof, and show cause why the

administrative order should not be enforced according to the terms. The commission shall immediately serve the person with a copy of the court order and the petition.

(4) The administrative order shall be enforced by the court if the person does not appear, or if the person appears and the court finds that:

(a) The order is regular on its face;

(b) The order has not been complied with; and

(c) The person's answer discloses no valid reason why the order should not be enforced, or that the reason given in the person's answer could have been raised by review under RCW 34.04.130, and the person has given no valid excuse for failing to use that remedy.

(5) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to a review by the supreme court or the court of appeals, on appeal, by either party, irrespective of the nature of the decree or judgment. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the supreme court or the court of appeals, and the record so certified shall contain all that was before the lower court.

Sec. 25. Section 22, chapter 37, Laws of 1957 as amended by section 4, chapter 259, Laws of 1981 and RCW 49.60.270 are each amended to read as follows:

Any respondent or complainant, including the commission, aggrieved by a final order of an administrative law judge may obtain ((a)) judicial review of such order ((in the superior court for the county where the unfair practice is alleged to have occurred or in the county wherein such person resides or transacts business by filing with the clerk of the court, within two weeks from the date of receipt of such order, a written petition in duplicate praying that such order be modified or set aside. The clerk shall thereupon mail the duplicate copy to the board. The board shall then cause to be filed in the court a certified transcript of the entire record in the proceedings, including the pleadings, testimony and order. Upon such filing the court shall proceed in the same manner as in the case of a petition by the board and shall have the same exclusive)) as provided under the administrative procedure act, chapter 34.04 RCW. From the time a petition for review is filed, the court has jurisdiction to grant to any party such temporary relief or restraining order as it deems just and suitable((, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order sought to be reviewed.

Unless otherwise directed by the court, commencement of review proceedings under this section shall operate as a stay of any order)). If the court affirms the order, it shall enter a judgment and decree enforcing the order as affirmed.

Sec. 26. Section 10, chapter 183, Laws of 1949 as last amended by section 4, chapter 100, Laws of 1961 and RCW 49.60.310 are each amended to read as follows:

Any person ((that)) who wilfully resists, prevents, impedes, or interferes with the ((board)) commission or any of its members or representatives in the performance of duty under this chapter, or ((that)) who wilfully violates an order of the ((board)) commission, is guilty of a misdemeanor; but procedure for the review of the order shall not be deemed to be such wilful conduct.

Sec. 27. Section 11, chapter 183, Laws of 1949 and RCW 49.60.320 are each amended to read as follows:

In any case in which the ((board)) commission shall issue an order against any political or civil subdivision of the state, or any agency, or instrumentality of the state or of the foregoing, or any officer or employee thereof, the ((board)) commission shall transmit a copy of such order to the governor of the state ((who)). The governor shall take such action ((as he deems appropriate)) to secure compliance with such order as the governor deems necessary.

NEW SECTION. Sec. 28. There is added to chapter 49.60 RCW a new section to read as follows:

No person shall be considered to have committed an unfair practice on the basis of age discrimination unless the practice discriminates against a person between the age of forty and seventy years and violates RCW 49.44.090. It is a defense to any complaint of an unfair practice of age discrimination that the practice does not violate RCW 49.44.090.

NEW SECTION. Sec. 29. There is added to chapter 34.12 RCW a new section to read as follows:

When requested by the state human rights commission, the chief administrative law judge shall assign an administrative law judge to conduct proceedings under chapter 49.60 RCW.

Sec. 30. Section 5, chapter 100, Laws of 1961 as amended by section 2, chapter 293, Laws of 1983 and RCW 49.44.090 are each amended to read as follows:

It shall be an unfair practice:

(1) For an employer or licensing agency, because an individual is between the ages of forty and seventy, to refuse to hire or employ or license or to bar or to terminate from employment such individual, or to discriminate against such individual in promotion, compensation or in terms, conditions or privileges of employment: PROVIDED, That employers or licensing agencies may establish reasonable minimum and/or maximum age limits with respect to candidates for positions of employment, which positions are of such a nature as to require extraordinary physical effort, endurance, condition or training, subject to the approval of the executive secretary of

the Washington state human rights commission or the director of labor and industries through the division of industrial relations.

(2) For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination respecting individuals between the ages of forty and seventy: PROVIDED, That nothing herein shall forbid a requirement of disclosure of birth date upon any form of application for employment or by the production of a birth certificate or other sufficient evidence of the applicant's true age.

Nothing contained in this section or in RCW 49.60.180 as to age shall be construed to prevent the termination of the employment of any person who is physically unable to perform his duties or to affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of this section; nor shall anything in this section or in RCW 49.60.180 be deemed to preclude the varying of insurance coverages according to an employee's age; nor shall this section be construed as applying to any state, county, or city law enforcement agencies, or as superseding any law fixing or authorizing the establishment of reasonable minimum or maximum age limits with respect to candidates for certain positions in public employment which are of such a nature as to require extraordinary physical effort, or which for other reasons warrant consideration of age factors.

NEW SECTION. Sec. 31. A new section is added to chapter 43.131 RCW to read as follows:

The human rights commission and its powers and duties shall be terminated on June 30, 1989, as provided in section 32 of this act.

NEW SECTION. Sec. 32. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts as now existing or hereafter amended are each repealed, effective June 30, 1990:

(1) Section 2, chapter 270, Laws of 1955, section 5, chapter 37, Laws of 1957, section 9, chapter 338, Laws of 1981, section 3 of this act and RCW 49.60.050;

(2) Section 2, chapter 52, Laws of 1971 ex. sess. and RCW 49.60.051;

(3) Section 3, chapter 270, Laws of 1955, section 4 of this act and RCW 49.60.060;

(4) Section 4, chapter 270, Laws of 1955, section 145, chapter 34, Laws of 1975-'76 2nd ex. sess., section 98, chapter 287, Laws of 1984, section 5 of this act and RCW 49.60.070;

(5) Section 5, chapter 270, Laws of 1955, section 6 of this act and RCW 49.60.080;

(6) Section 6, chapter 270, Laws of 1955, section 6, chapter 37, Laws of 1957, section 7 of this act and RCW 49.60.090;

(7) Section 7, chapter 270, Laws of 1955, section 74, chapter 75, Laws of 1977, section 8 of this act and RCW 49.60.100;

(8) Section 5, chapter 183, Laws of 1949, section 9 of this act and RCW 49.60.110;

(9) Section 8, chapter 270, Laws of 1955, section 7, chapter 37, Laws of 1957, section 1, chapter 81, Laws of 1971 ex. sess., section 7, chapter 141, Laws of 1973, section 4, chapter 214, Laws of 1973 1st ex. sess., section 10 of this act and RCW 49.60.120;

(10) Section 9, chapter 270, Laws of 1955, section 2, chapter 81, Laws of 1971 ex. sess., section 8, chapter 141, Laws of 1973, section 5, chapter 214, Laws of 1973 1st ex. sess., section 146, chapter 34, Laws of 1975-'76 2nd ex. sess., section 11 of this act and RCW 49.60.130;

(11) Section 10, chapter 270, Laws of 1955, section 12 of this act and RCW 49.60.140;

(12) Section 11, chapter 270, Laws of 1955, section 13 of this act and RCW 49.60.150;

(13) Section 12, chapter 270, Laws of 1955, section 14 of this act and RCW 49.60.160;

(14) Section 13, chapter 270, Laws of 1955, section 15 of this act and RCW 49.60.170;

(15) Section 8, chapter 167, Laws of 1969 ex. sess., section 20 of this act and RCW 49.60.226;

(16) Section 15, chapter 270, Laws of 1955, section 16, chapter 37, Laws of 1957, section 21 of this act and RCW 49.60.230;

(17) Section 16, chapter 270, Laws of 1955, section 17, chapter 37, Laws of 1957, section 1, chapter 259, Laws of 1981, section 22 of this act and RCW 49.60.240;

(18) Section 17, chapter 270, Laws of 1955, section 18, chapter 37, Laws of 1957, section 2, chapter 259, Laws of 1981, section 1, chapter 293, Laws of 1983, section 23 of this act and RCW 49.60.250;

(19) Section 21, chapter 37, Laws of 1957, section 118, chapter 81, Laws of 1971, section 3, chapter 259, Laws of 1981, section 24 of this act and RCW 49.60.260;

(20) Section 22, chapter 37, Laws of 1957, section 4, chapter 259, Laws of 1981, section 25 of this act and RCW 49.60.270;

(21) Section 23, chapter 37, Laws of 1957 and RCW 49.60.280;

(22) Section 10, chapter 183, Laws of 1949, section 26, chapter 37, Laws of 1957, section 4, chapter 100, Laws of 1961, section 26 of this act and RCW 49.60.310; and

(23) Section 11, chapter 183, Laws of 1949, section 27 of this act and RCW 49.60.320.

Passed the House April 12, 1985.

Passed the Senate April 9, 1985.

Approved by the Governor April 25, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 25, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval a portion of Section 4, Substitute House Bill No. 52, entitled:

"AN ACT Relating to revising provisions relating to the human rights commission."

This bill makes various technical and procedural changes to the operation of the Human Rights Commission.

However, a portion of Section 4 requires the governor in making appointments to guarantee that the membership of the commission is representative of the various geographical areas of the state. This language is not typical of clauses for other Boards and Commissions and is vague. Language which expressly states the number of representatives from each side of mountains is typical and preferable where the legislature desires to mandate a geographic mix.

I am committed to work for geographical representation on Boards and Commissions and overall feel I have done so.

With the exception of a portion of Section 4, Substitute House Bill No. 52 is approved."

CHAPTER 186

[Senate Bill No. 3393]

CRIMINAL ACTIONS—STATUTE OF LIMITATIONS MODIFIED

AN ACT Relating to limitation of actions; and amending RCW 9A.04.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 18, chapter 270, Laws of 1984 and RCW 9A.04.080 are each amended to read as follows:

Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within ((five)) seven years after their commission; for violations of RCW 9A.82.060 or 9A.82.080, within six years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after

their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: PROVIDED, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, (~~five~~) six, seven, and ten years respectively: AND FURTHER PROVIDED, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside.

Passed the Senate February 20, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 187

[Engrossed Senate Bill No. 3467]

COUNTY RAIL DISTRICTS—EXTRATERRITORIAL SERVICES

AN ACT Relating to county rail districts; and amending RCW 36.60.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 303, Laws of 1983 and RCW 36.60.010 are each amended to read as follows:

Subject to RCW 36.60.020, the legislative authority of a county may establish one or more county rail districts within the county for the purpose of providing and funding improved rail freight service. The boundaries of county rail districts shall be drawn to include contiguous property in an area from which agricultural or other goods could be shipped by the rail service provided. The district shall not include property outside this area which does not, or, in the judgment of the county legislative authority, is not expected to produce goods which can be shipped by rail, or property substantially devoted to fruit crops or producing goods that are shipped in a direction away from the district. A county rail district is a quasi municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A county rail district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to accept and expend or use gifts, grants, and donations, and to sue and be sued.

The county legislative authority shall be the governing body of a county rail district. The county treasurer shall act as the ex officio treasurer of the county rail district. The electors of a district are all registered voters residing within the district.

This authority and that provided in RCW 36.60.030 may only be exercised outside the boundaries of the county rail district if such extraterritorial rail services, equipment, or facilities are found, by resolution of the county legislative authority exercising such authority, to be reasonably necessary to link the rail services, equipment, and facilities within the rail district to an interstate railroad system; however, if such extraterritorial rail services, equipment, or facilities are in or are to be located in one or more other counties, the legislative authority of such other county must consent by resolution to the proposed plan of the originating county which consent shall not be unreasonably withheld.

Passed the Senate March 7, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 188

[Senate Bill No. 3569]

RISK MANAGEMENT OFFICE AUTHORITY EXPANDED

AN ACT Relating to risk management; amending RCW 43.19.1935, 43.19.19361, 43.19.19362, 43.19.19366, 4.92.100, 4.92.110, 4.92.140, and 4.92.150; and adding a new section to chapter 43.19 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43.19.1935, chapter 8, Laws of 1965 as last amended by section 6, chapter 270, Laws of 1977 ex. sess. and RCW 43.19.1935 are each amended to read as follows:

As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director of general administration through the risk management office shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That ~~((the individual statutory bonds of elected state officials, insurance requirements of colleges and universities, insurance requirements of toll project agencies, and insurance covering proprietary activities of state agencies, other than motor vehicle coverage, may be procured directly and independently by them after consultation with the risk management office. PROVIDED FURTHER, That))~~ authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management office periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director of the department of general administration.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations ~~((made))~~ or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management office prior to the issuance of the ~~((state))~~ warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the central stores revolving fund which fund shall be reimbursed by the agency or agencies for which procurement is made.

Sec. 2. Section 1, chapter 270, Laws of 1977 ex. sess. and RCW 43-19.19361 are each amended to read as follows:

It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

(1) To identify those liability and property risks which may have a significant economic impact on the state;

(2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;

(3) To eliminate or improve conditions and practices which contribute to loss whenever practical;

(4) To assume risks to the maximum extent practical;

(5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;

(6) To purchase commercial insurance:

(a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or

(b) When the fiduciary of encumbered property insists on commercial insurance; or

(c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or

(d) When services provided by an insurance company are considered necessary; or

(e) When services or coverages provided by an insurance company are cost-effective; or

(f) When otherwise required by statute; and

(7) To develop plans for the management and protection of the revenues and assets of the state.

Sec. 3. Section 2, chapter 270, Laws of 1977 ex. sess. and RCW 43-19.19362 are each amended to read as follows:

There is hereby created a risk management office within the department of general administration. The director of general administration shall implement the risk management policy in RCW 43.19.19361 through the

risk management office. The director of general administration shall appoint a risk manager to supervise the risk management office. The risk management office shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. ~~((The state supply management advisory board shall serve as the advisory board for the risk management office.))~~ The director of general administration shall submit a risk management ~~((progress))~~ report to the governor, with a copy to the standing committees having jurisdiction on judiciary and insurance in the senate and the house of representatives ~~((at the first scheduled legislative session after December 31, 1977))~~ on or before January 10, 1986, and January 10 of every even-numbered year thereafter. The management report shall ~~((include appropriate recommendations for new or amended legislation, as required,))~~ describe the plans, policies, and operation of the risk management office and shall at least ~~((address))~~ include the following:

(1) Success in implementing stated goals and objectives for the risk management office;

(2) Improving loss control and prevention practices;

~~((2))~~ (3) Self-insuring risks of loss to state-owned property except where bond indentures or other special considerations require the purchase of insurance;

~~((3))~~ (4) Consolidating ~~((fire))~~ insurance coverages for properties requiring insurance by bond indenture;

~~((4))~~ (5) Establishing an emergency fund to provide assistance to state agencies in the event of serious property loss ~~((from fire or other peril))~~;

~~((5))~~ (6) Self-insuring liability risks to public and professional third parties;

~~((6) Increasing))~~ (7) Funding of the tort claims revolving fund ~~((to reflect an expanded and formalized self-insurance system))~~ on an actuarial basis;

~~((7) Purchasing))~~ (8) A program of excess liability coverage above a selected self-insurance limit;

~~((8) Inhibiting factors which have prevented full and prompt implementation of risk management policies established by the legislature in RCW 43.19.19361.~~

~~((9) Listing of state-wide savings and))~~ (9) Identification of cost savings and cost avoidances ~~((which are expected to be achieved in the 1977-79 biennium, and each biennium thereafter, as a result of implementation of established risk management policies))~~ achieved during the preceding two years; and

~~((The effectiveness of the supply management advisory board as the advisory board for the risk management office))~~ Appropriate recommendations for new or amended legislation.

Sec. 4. Section 1, chapter 112, Laws of 1981 and RCW 43.19.19366 are each amended to read as follows:

The risk management office shall cease to exist on June 30, (~~(+1987)~~) 1989, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 5. A new section is added to chapter 43.19 RCW to read as follows:

The director of general administration, through the risk management office, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington.

**Sec. 6. Section 3, chapter 159, Laws of 1963 as last amended by section 3, chapter 151, Laws of 1979 and RCW 4.92.100 are each amended to read as follows:*

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the director of financial management and the risk management office. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing his claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing him.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

**Sec. 6 was vetoed, see message at end of chapter.*

**Sec. 7. Section 4, chapter 159, Laws of 1963 as last amended by section 4, chapter 151, Laws of 1979 and RCW 4.92.110 are each amended to read as follows:*

No action shall be commenced against the state for damages arising out of tortious conduct until a claim has first been presented to and filed with the director of financial management and the risk management office. The requirements of this section shall not affect the applicable period of limitations within which an action must be commenced, but such period shall begin and shall continue to run as if no claim were required.

**Sec. 7 was vetoed, see message at end of chapter.*

Sec. 8. Section 8, chapter 159, Laws of 1963 as last amended by section 1, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.140 are each amended to read as follows:

The head or governing body of any agency or department of state government or the designee of any such agency, with the approval of the attorney general and the risk management office, may consider, ascertain, adjust, determine, compromise, and settle any claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. for which the state of Washington or any of its officers or employees would be liable in law for money damages of ten thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington or its affected officer or employee. A request for administrative settlement shall not preclude a claimant from filing a court action pending administrative determination, limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state.

Sec. 9. Section 9, chapter 159, Laws of 1963 as last amended by section 2, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.150 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers or employees arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or upon petition by the state, the attorney general, with the prior approval of the risk management office and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer or employee.

Passed the Senate March 21, 1985.

Passed the House April 11, 1985.

Approved by the Governor April 25, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 25, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to two sections, Senate Bill No. 3569, entitled:

"AN ACT Relating to risk management."

Sections 6 and 7 of this bill would require claims against the state for damages arising out of tortious conduct to be filed with the Risk Management Office in addition to the currently required filing with the Office of Financial Management. This dual claim filing could be unnecessarily burdensome and confusing to the public. However, notice to the Risk Management Office is necessary to the improvement of our risk management program, which I support.

Therefore, I have directed the Office of Financial Management to provide the Risk Management Office with a copy of all filings. This will accomplish the purpose

of these sections at no inconvenience to the public. State government should avoid requiring duplicate filings by the public when possible.

With the exceptions of Sections 6 and 7, Senate Bill No. 3569 is approved.

CHAPTER 189

[Engrossed House Bill No. 222]

MARTIN LUTHER KING, JR.'S BIRTHDAY—LEGAL HOLIDAY— PRESIDENTS' DAY MODIFIED

AN ACT Relating to legal holidays; and amending RCW 1.16.050 and 28A.02.061.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 51, Laws of 1927 as last amended by section 1, chapter 77, Laws of 1979 and RCW 1.16.050 are each amended to read as follows:

The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; ~~((the twelfth day of February, being the anniversary of the birth of Abraham Lincoln; the third Monday of February, being celebrated as the anniversary of the birth of George Washington))~~ the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday of February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, shall be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

If any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement

and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

The legislature declares that the twelfth day of October shall be recognized as Columbus Day but shall not be considered a legal holiday for any purposes.

Sec. 2. Section 13, chapter 283, Laws of 1969 ex. sess. as last amended by section 1, chapter 92, Laws of 1984 and RCW 28A.02.061 are each amended to read as follows:

The following are school holidays, and school shall not be taught on these days: Saturday; Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February (~~(, being the anniversary of the birth of)~~) to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: PROVIDED, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught.

Passed the House April 22, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor April 26, 1985.

Filed in Office of Secretary of State April 26, 1985.

CHAPTER 190

[Engrossed Substitute Senate Bill No. 3678]

BUSINESS AND OCCUPATION TAX—CREDIT FOR TAXES PAID TO ANOTHER
STATE FOR SALES OF PRODUCTS EXTRACTED OR MANUFACTURED IN-
STATE

AN ACT Relating to revenue and taxation; amending RCW 82.04.440, 82.49.010, and 82.49.030; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.49 RCW; creating a new section; repealing RCW 82.49.040, 82.49.050, and 82.49.060; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.04.440, chapter 15, Laws of 1961 as last amended by section 5, chapter 172, Laws of 1981 and RCW 82.04.440 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in (: ~~PROVIDED, That~~)).

(2) Persons taxable under RCW 82.04.250 or 82.04.270 shall not be taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold (, ~~and that~~)).

(3) Persons taxable under RCW 82.04.240 or ((RCW)) 82.04.260 subsection (4) shall not be taxable under RCW 82.04.230 with respect to extracting the ingredients of the products so manufactured.

(4)(a) If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that subsection (2) of this section results in an unconstitutional discrimination against interstate or foreign commerce, and that relief is appropriate for any tax reporting periods either before or after the effective date of this 1985 act, it is the intent of the legislature that the credit provided in (b) of this subsection shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credit. It is further the intent of the legislature that such credit shall be applicable only under the conditions and to the extent provided in this subsection (4).

(b) As provided in (a) of this subsection, a person taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(c) For the purpose of this subsection, "gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(d) For the purpose of this subsection, "state" means state of the United States, any political subdivision thereof, or the District of Columbia, and any foreign country or political subdivision thereof.

****NEW SECTION. Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:***

The provisions of this chapter shall not apply with respect to the use of manufacturing equipment which was owned and used at least one year in manufacturing in another state and which is brought into this state and placed in a factory and used in production in this state.

**Sec. 2 was vetoed, see message at end of chapter.*

****Sec. 3. Section 9, chapter 7, Laws of 1983 as amended by section 42, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.49.010 are each amended to read as follows:***

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax ((is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater.)) shall be as follows:

(a) For vessels sixteen feet or more in length but less than twenty feet, ninety-five cents per foot, or fraction thereof;

(b) For vessels twenty feet or more in length but less than twenty-six feet, one dollar and eighty cents per foot, or fraction thereof;

(c) For vessels twenty-six feet or more in length but less than thirty-two feet, two dollars and sixty-five cents per foot, or fraction thereof;

(d) For vessels thirty-two feet or more in length but less than thirty-eight feet, three dollars and fifteen cents per foot, or fraction thereof; and

(e) For vessels thirty-eight feet or more in length, three dollars and seventy cents per foot, or fraction thereof.

Length is determined by means of a straight line measurement of the overall length from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, and similar fittings or attachments are not included in the measurement.

(2) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes

vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year. ~~((The excise tax on vessels required to be registered in this state on June 30, 1983, shall be paid by June 30, 1983.))~~

*Sec. 3 was vetoed, see message at end of chapter.

*Sec. 4. Section 10, chapter 7, Laws of 1983 and RCW 82.49.030 are each amended to read as follows:

The excise taxes imposed under ~~((this chapter is))~~ RCW 82.49.010 and 82.49.070 are due and payable to the department of licensing or its agents at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until ~~((the tax is))~~ these taxes are paid in full.

The excise taxes collected under ~~((this chapter))~~ RCW 82.49.010 shall be deposited in the general fund. The excise taxes collected under RCW 82.49.070 shall be deposited in the vessel local excise tax account hereby created in the general fund. Moneys in the vessel local excise tax account may be spent only for distribution to counties imposing the local tax. Distribution to the counties shall occur on a monthly basis, not later than the fifteenth day of the succeeding month after collection.

*Sec. 4 was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 5. A new section is added to chapter 82.49 RCW to read as follows:

(1) Any vessel which is not less than forty years old and whose hull is substantially unmodified shall be considered to be a classic vessel for the purposes of this chapter.

(2) Owners of classic vessels as described in subsection (1) of this section may, as an alternative to paying the vessel excise tax imposed in RCW 82.49.010, have the vessel appraised by the county assessor of the county in which the vessel is moored or stored. The appraised value of the vessel shall be reported to the department on a form prescribed by the department and the excise tax due and payable each year shall be paid at the rate of one-half of one percent of the appraised value of the vessel as certified by the county assessor.

(3) The fee for such appraisal shall be twenty-five dollars, payable to the county treasurer for deposit in the county current expense fund.

*Sec. 5 was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) Section 11, chapter 7, Laws of 1983 and RCW 82.49.040;

(2) Section 12, chapter 7, Laws of 1983 and RCW 82.49.050; and

(3) Section 13, chapter 7, Laws of 1983 and RCW 82.49.060.

*Sec. 6 was vetoed, see message at end of chapter.

****NEW SECTION. Sec. 7. This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.***

*Sec. 7 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

****NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except sections 3 through 6 of this act shall take effect July 1, 1985.***

*Sec. 9 was partially vetoed, see message at end of chapter.

Passed the Senate April 28, 1985.

Passed the House April 28, 1985.

Approved by the Governor April 30, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 30, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to several sections, Engrossed Substitute Senate Bill No. 3678, entitled:

"AN ACT Relating to revenue and taxation."

The following sections of Engrossed Substitute Senate Bill No. 3678 are hereby vetoed: Sections 2, 3, 4, 5, 6, 7, and the part of Section 9 which refers to Sections 3 through 6.

This bill was a very narrow one which is a response to the recent U. S. Supreme Court decision in Armeo relating to taxation. Due to the narrowness of my request and the need for passage of this legislation, I requested that no other measures regardless of merit be attached as amendments.

Although the sections I am vetoing may be meritorious, I believe it is important to maintain the legislation as a narrow bill as requested.

With the exceptions of those sections vetoed, Engrossed Substitute Senate Bill No. 3678 is approved."

CHAPTER 191

[Engrossed House Bill No. 787]

AVALANCHE CONTROL PROCEDURES—USE OF EXPLOSIVES

AN ACT Relating to explosives; amending RCW 70.74.191; and adding a new section to chapter 70.74 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.74 RCW to read as follows:

It is the purpose of this 1985 act to protect the public by enabling ski area operators to exercise appropriate avalanche control measures. The legislature finds that avalanche control is of vital importance to safety in ski areas and that the provisions of the Washington state explosives act contain restrictions which do not reflect special needs for the use of explosives as a means of clearing an area of serious avalanche risks. This 1985 act recognizes these needs while providing for a system of regulations designed to ensure that the use of explosives for avalanche control conforms to fundamental safety requirements.

Sec. 2. Section 5, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.191 are each amended to read as follows:

The laws contained in this chapter and the ensuing regulations prescribed by the department of labor and industries shall not apply to:

(1) Explosives or blasting agents in the course of transportation by way of railroad, water, highway or air under the jurisdiction of, and in conformity with, regulations adopted by the federal department of transportation, the Washington state utilities and transportation commission and the Washington state patrol;

(2) The laboratories of schools, colleges and similar institutions if confined to the purpose of instruction or research and if not exceeding the quantity of one pound;

(3) Explosives in the forms prescribed by the official United States Pharmacopoeia;

(4) The transportation, storage and use of explosives or blasting agents in the normal and emergency operations of federal agencies and departments including the regular United States military departments on military reservations, or the duly authorized militia of any state or territory, or to emergency operations of any state department or agency, any police, or any municipality or county;

(5) The sale and use of fireworks, signaling devices, flares, fuses, and torpedoes;

(6) The transportation, storage, and use of explosives or blasting agents in the normal and emergency avalanche control procedures as conducted by trained and licensed ski area operator personnel. However, the storage, transportation, and use of explosives and blasting agents for such use shall meet the requirements of regulations adopted by the director of labor and industries; and

(7) Any violation under this chapter if any existing ordinance of any city, municipality or county is more stringent than this chapter.

Passed the House March 12, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 192

[Senate Bill No. 3818]

RECORDS COMMITTEE—MEMBERSHIP TO INCLUDE APPOINTEE OF THE DIRECTOR OF FINANCIAL MANAGEMENT

AN ACT Relating to the records committee; and amending RCW 40.14.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 246, Laws of 1957 as amended by section 83, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 40.14.050 are each amended to read as follows:

There is created a committee, to be known as the records committee, composed of the archivist, an appointee of the state auditor, ~~((and))~~ an appointee of the attorney general, and an appointee of the director of financial management. Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Such expenses shall be paid from the appropriations made for operation of their respective departments or offices.

The records committee shall meet at least once every quarter or oftener as business dictates. Action by the committee shall be by majority vote and records shall be kept of all committee business.

It shall be the duty of the records committee to approve, modify or disapprove the recommendations on retention schedules of all files of public records and to act upon requests to destroy any public records: PROVIDED, That any modification of a request or recommendation must be approved by the head of the agency originating the request or recommendation.

The division of archives and records management shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved.

Passed the Senate March 14, 1985.

Passed the House April 15, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 193

[Substitute Senate Bill No. 3094]

DEEDS OF TRUST

AN ACT Relating to deeds of trust; amending RCW 61.24.020, 61.24.030, and 61.24.040; adding a new section to chapter 61.24 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 61.24 RCW to read as follows:

Any person desiring a copy of any notice of sale described in RCW 61.24.040(1)(f) under any deed of trust, other than a person entitled to receive such a notice under RCW 61.24.040(1) (b) or (c), must, after the recordation of such deed of trust and before the recordation of the notice of sale, cause to be filed for record, in the office of the auditor of any county in which the deed of trust is recorded, a duly acknowledged request for a copy of any notice of sale. The request shall be signed and acknowledged by the person to be notified or such person's agent, attorney, or representative; shall set forth the name, mailing address, and telephone number, if any, of the person or persons to be notified; shall identify the deed of trust by stating the names of the parties thereto, the date the deed of trust was recorded, the legal description of the property encumbered by the deed of trust, and the auditor's file number under which the deed of trust is recorded; and shall be in substantially the following form:

REQUEST FOR NOTICE

Request is hereby made that a copy of any notice of sale described in RCW 61.24.040(1)(f) under that certain Deed of Trust dated, 19. . ., recorded on, 19. . ., under auditor's file No., records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, and affecting the following described real property:

(Legal Description)

be sent by both first class and either registered or certified mail, return receipt requested, to at

Dated this day of, 19. . .

.....
Signature

(Acknowledgment)

A request for notice under this section shall not affect title to, or be deemed notice to any person that any person has any right, title, interest in, lien or charge upon, the property described in the request for notice.

Sec. 2. Section 2, chapter 74, Laws of 1965 as amended by section 2, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.020 are each amended to read as follows:

Except as provided in this chapter, a deed of trust is subject to all laws relating to mortgages on real property. A deed conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or another to the beneficiary may be foreclosed as in this chapter provided. The county auditor shall record such deed as a mortgage and shall index the name of the grantor as mortgagor and the names of the trustee and beneficiary as mortgagee. No person, corporation or association may be both trustee and beneficiary under the same deed of trust: PROVIDED, That any agency of the United States government may be both trustee and beneficiary under the same deed of trust.

Sec. 3. Section 3, chapter 74, Laws of 1965 as amended by section 3, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.030 are each amended to read as follows:

It shall be requisite, to foreclosure under this chapter:

- (1) That the deed of trust contains a power of sale;
- (2) That the deed of trust provides in its terms that the real property conveyed is not used principally for agricultural or farming purposes;
- (3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust or the beneficiary's successor is now pending ((on)) to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated; and

(6) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the grantor or any successor in interest at his last known address by both first class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on said premises, a copy of said notice, or personally served on the grantor or his successor in interest. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) The book and the page of the book of records wherein the deed of trust is recorded;

(c) That the beneficiary has declared the grantor or any successor in interest to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs or fees that the grantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) The total of subparagraphs (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) That failure to cure said alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal and publication of a notice of sale, and that the property described in subparagraph (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) That the effect of the recordation, transmittal and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor or his successor in interest and all those who hold by, through or under him of all their interest in the property described in subsection (a);

(j) That the grantor or any successor in interest has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground.

Sec. 4. Section 4, chapter 74, Laws of 1965 as last amended by section 3, chapter 161, Laws of 1981 and RCW 61.24.040 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form (~~hereinafter specified~~) described in RCW 61.24.040(1)(f) in the office of the auditor in each county in which the deed of trust is recorded;

(b) If their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice ((as hereinafter provided)) of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to ((each person who has an interest in or lien or claim of lien against the property or some part thereof, provided such interest, lien or claim is of record at the time the notice is recorded and further provided the address of such person is stated in the recorded instrument recording his interest, lien or claim, or is otherwise known to the trustee)) the following persons or their legal representatives, if any, at such address:

(i) The beneficiary or mortgagee of any deed of trust or mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(ii) The vendee in any real estate contract, the lessee in any lease or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;
and

(iv) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed;

(c) Cause a copy of the notice ((as hereinafter provided)) of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the plaintiff or ((his)) the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is ((on file)) recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded ((in the office of the auditor));

(d) Cause a copy of the notice ((as hereinafter provided)) of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to any person who ((shall have previously requested such notice in writing to the trustee)) has recorded a request for notice in accordance with section 1 of this 1985 act, at the address specified ((by the requesting person)) in such person's most recently recorded request for notice;

(e) Cause a copy of the notice ((as hereinafter provided)) of sale described in RCW 61.24.040(1)(f) to be posted in a conspicuous place on ((said premises)) the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of ((said tract)) the property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the day of, 19 . . ., at the hour of o'clock M. at
[street address and location if inside a building] in the City of

State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of, State of Washington, to-wit:

which is subject to that certain Deed of Trust dated, 19. . ., recorded, 19. . ., under Auditor's File No., records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, the beneficial interest in which was assigned by, under an Assignment recorded under Auditor's File No. [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust or the Beneficiary's successor is now pending to seek satisfaction of the obligation in any Court by reason of the Grantor's default on the obligation secured by ((said)) the Deed of Trust.

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal \$., together with interest as provided in the note ((provided)) or other instrument secured from the day of, 19. . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by ~~((said))~~ the Deed of Trust as provided by statute. ~~((Said))~~ The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the day of, 19.. The ~~((defaults))~~ default(s) referred to in paragraph III must be cured by the day of, 19..~~((;))~~ (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the day of, 19.., ~~((+0))~~ 11 days before the sale date, the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated ~~((by the grantor anytime))~~ any time after the day of, 19..~~((;))~~ (11 days before the sale date), and before the sale by the Grantor or ~~((his))~~ the Grantor's successor in interest or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Grantor or ~~((his))~~ the Grantor's successor in interest at the following address:

.....

by both first class and certified mail on the day of, 19.., proof of which is in the possession of the Trustee; and the Grantor or ~~((his))~~ the Grantor's successor in interest was personally served on the day of, 19.., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has ~~((in-his))~~ possession of proof of such service or posting.

VII.

The Trustee whose name and address ~~((is))~~ are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under ~~((him))~~ the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

.....
..... } Trustee
..... } Address
..... } Phone

((STATE OF WASHINGTON _____)
COUNTY OF _____) ss:

~~On this day personally appeared before me, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.~~

~~GIVEN under my hand and official seal this day of, 19...~~

.....
NOTARY PUBLIC in and for the State of Washington, residing at

{SEAL}) [Individual or corporate acknowledgment]

(2) In addition to providing the grantor or ((his)) the grantor's successor in interest the notice ((as provided)) of sale described in RCW 61.24.040(1)(f), the trustee shall include with the copy of the notice which is mailed to the grantor or the grantor's successor in interest, a statement to the grantor or ((his)) the grantor's successor in interest in substantially the following form:

NOTICE OF FORECLOSURE
Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW((,-et seq:))

The attached Notice of Trustee's Sale is a consequence of ((your)) default(s) in ((your)) the obligation to, the Beneficiary of your Deed of Trust and ((holder of your Note)) owner of the obligation secured thereby. Unless ((you cure)) the default(s) is/are cured, your property will be sold at auction on the day of, 19...

To cure ((your)) the default(s), you must bring ((your)) the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the day of

....., 19..(;) (11 days before the sale date). To date, these arrearages and costs are as follows:

	Currently due to reinstate on _____ _____	Estimated amount that will be due to reinstate on _____ (11 days before the date set for sale)
Delinquent payments from, 19.., in the amount of \$..... /mo.:	\$.....	\$.....
Late charges in the total amount of:	\$.....	\$.....
		Estimated Amounts
Attorneys' fees:	\$.....	\$.....
Trustee's fee:	\$.....	\$.....
Trustee's expenses: (Itemization)		
Title report	\$.....	\$.....
Recording fees	\$.....	\$.....
Service/Posting of Notices	\$.....	\$.....
Postage/Copying expense	\$.....	\$.....
Publication	\$.....	\$.....
Telephone charges	\$.....	\$.....
Inspection fees	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....
TOTALS	\$.....	\$.....

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the

Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

<u>Default</u>	<u>Description of Action Required to Cure and Documentation Necessary to Show Cure</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

You may reinstate your (~~Note and~~) Deed of Trust and the obligation secured thereby at any time up to and including the day of, 19..(~~;~~) (11 days before the sale date), by paying the amount (~~as~~) set forth or estimated above and by curing any other defaults described above. Of course, (~~each month that~~) as time passes (~~brings another monthly~~) other payments may become due, and (~~such monthly~~) any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to:, whose address is, telephone () **AFTER THE DAY OF, 19.., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE.** In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance (\$.....) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of (~~..... County~~) the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. (~~You may also contest this sale in court by initiating court action:)~~ A copy of your (~~Note and~~) Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

If you do not reinstate (~~(your Note)~~) the secured obligation and your Deed of Trust (~~(by paying the amount demanded here)~~) in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold to satisfy (~~(your)~~) the obligations secured by your Deed of Trust. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice (~~(as provided)~~) of sale described in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once between the thirty-second and twenty-eighth day before the date of sale, and once between the eleventh and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in (~~(either)~~) any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee may for any cause (~~(he)~~) the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by a public proclamation at the time and place fixed for sale in the notice of sale or, alternatively, by giving notice of the time and place of the postponed sale in the manner and to the persons specified in RCW 61.24.040(1) (b), (c), (d), and (e) and publishing a copy of such notice once in the newspaper(s) described in RCW 61.24.040(3), more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured.

NEW SECTION. Sec. 5. This act shall apply to foreclosures commenced, by the giving of a notice of default pursuant to RCW 61.24.030(6), after the effective date of this act.

Passed the Senate March 7, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 194

[Senate Bill No. 3103]

HOMESTEADS

AN ACT Relating to award in lieu of homestead; and amending RCW 11.52.012, 11.52.020, and 11.52.022.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11.52.012, chapter 145, Laws of 1965 as last amended by section 18, chapter 260, Laws of 1984 and RCW 11.52.012 are each amended to read as follows:

Such award shall be made by an order or judgment of the court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates: PROVIDED, That no property of the estate shall be awarded or set off, as provided in RCW 11.52.010 through 11.52.024, as now or hereafter amended, to a surviving spouse who has feloniously killed the deceased spouse: PROVIDED FURTHER, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) if such surviving spouse or minor children are entitled to receive property not subject to probate, including insurance, by reason of the death of the deceased spouse in the ~~((sum of twenty-five thousand dollars))~~ amount specified in RCW 11.52.010, or more, then the award in lieu of homestead and exemptions shall lie in the discretion of the court, and that whether there shall be an award and the amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable but not in excess of the award provided herein.

Sec. 2. Section 11.52.020, chapter 145, Laws of 1965 as last amended by section 19, chapter 260, Laws of 1984 and RCW 11.52.020 are each amended to read as follows:

In event a homestead has been, or shall be selected in the manner provided by law, whether the selection of such homestead results in vesting the complete or partial title in the survivor, it shall be the duty of the court,

upon petition of any person interested, and upon being satisfied that the value thereof does not exceed ~~((twenty-five thousand dollars))~~ at the time of the death the amount specified in RCW 11.52.010, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased and exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's, or materialmen's liens thereon, and exclusive of funeral expenses, expenses of last sickness and of administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse, to enter a decree, upon notice as provided in RCW 11.52.014 or upon longer notice if the court so orders, setting off and awarding such homestead to the survivor, thereby vesting the title thereto in fee simple in the survivor: PROVIDED, That if there be any incompetent heirs of the decedent, the court shall appoint a guardian ad litem for such incompetent heir who shall appear at the hearing and represent the interest of such incompetent heir.

Sec. 3. Section 11.52.022, chapter 145, Laws of 1965 as last amended by section 20, chapter 260, Laws of 1984 and RCW 11.52.022 are each amended to read as follows:

If the value of the homestead, exclusive of all such liens, be less than ~~((twenty-five thousand dollars))~~ the amount specified in RCW 11.52.010, the court, upon being satisfied that the funeral expenses, expenses of last sickness and of administration, have been paid or provided for, shall set off and award additional property, either separate or community, in lieu of such deficiency, so that the value of the homestead, exclusive of all such liens and expenses when added to the value of the other property awarded, exclusive of all such liens and expenses shall equal ~~((twenty-five thousand dollars))~~ the amount specified in RCW 11.52.010: PROVIDED, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) that such surviving spouse is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property not subject to probate, including insurance by reason of the death of the deceased spouse in the ~~((sum of twenty-five thousand dollars))~~ amount specified in RCW 11.52.010, or more, then the award of property in addition to the homestead, where the homestead is of less than ~~((twenty-five thousand dollars in value))~~ the amount specified in RCW 11.52.010, shall lie in the discretion of the court, and that whether there shall be an award in addition to the homestead and the amount thereof shall be determined by the court, which

shall enter such decree as shall be just and equitable, but not in excess of the award provided herein.

Passed the Senate February 6, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 195

[Senate Bill No. 3127]

STATE INVESTMENT BOARD—MEMBERSHIP—STATE TREASURER MAY DESIGNATE ASSISTANT STATE TREASURER

AN ACT Relating to the state investment board; and amending RCW 43.33A.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 3, Laws of 1981 as amended by section 1, chapter 219, Laws of 1981 and RCW 43.33A.020 are each amended to read as follows:

There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

Passed the Senate February 13, 1985.

Passed the House April 11, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 196

[Senate Bill No. 3298]

STREAMS, LAKES, OR PUBLIC WATER SOURCES—MINIMUM FLOW— NOTICE REQUIREMENTS

AN ACT Relating to minimum flow advertising; and amending RCW 90.22.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 284, Laws of 1969 ex. sess. as amended by section 384, chapter 7, Laws of 1984 and RCW 90.22.020 are each amended to read as follows:

Flows or levels authorized for establishment under RCW 90.22.010, or subsequent modification thereof by the department shall be provided for through the adoption of rules. Before the establishment or modification of a water flow or level for any stream or lake or other public water, the department shall hold a public hearing in the county in which the stream, lake, or other public water is located. If it is located in more than one county the

department shall determine the location or locations therein and the number of hearings to be conducted. Notice of the hearings shall be given by publication in a newspaper of general circulation in the county or counties in which the stream, lake, or other public waters is located, once a week for ~~((three))~~ two consecutive weeks before the hearing. The notice shall include the following:

(1) The name of ~~((the))~~ each stream, lake, or other water source under consideration;

(2) ~~((The proposed levels or flows to be established, if the department has made a determination before the hearing;~~

~~((3)))~~ The place and time of the hearing;

~~((4)))~~ (3) A statement that any person, including any private citizen or public official, may present his views either orally or in writing.

Notice of the hearing shall also be served upon the administrators of the departments of fisheries, social and health services, and natural resources, the game commission, and the department of transportation.

Passed the Senate March 11, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 197

[Senate Bill No. 3337]

DEPARTMENT OF NATURAL RESOURCES—MODIFICATION OF COMMISSIONER OF PUBLIC LAND REFERENCES

AN ACT Relating to public lands; amending RCW 79.01.134, 79.01.264, and 79.28.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 73, Laws of 1961 and RCW 79.01.134 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department of natural resources, upon application by any person, firm or corporation, may enter into a contract providing for the sale and removal of rock, gravel, sand and silt located upon state lands or state forest lands, and providing for payment to be made therefor on a royalty basis. The issuance of a contract shall be made after public auction and such contract shall not be issued for less than the appraised value of the material.

Each application made pursuant to this section shall set forth the estimated quantity and kind of materials desired to be removed and shall be accompanied by a map or plat showing the area from which the applicant wishes to remove such materials. The ~~((commissioner of public lands))~~ department of natural resources may in ~~((his))~~ its discretion include in any contract entered into pursuant to this section, such terms and conditions

protecting the interests of the state as ~~((he))~~ it may require. In each such contract the ~~((commissioner of public lands))~~ department of natural resources shall provide for a right of forfeiture by the state, upon a failure to operate under the contract or pay royalties for periods therein stipulated, and he may require a bond with a surety company authorized to transact a surety business in this state, as surety, to secure the performance of the terms and conditions of such contract including the payment of royalties. The right of forfeiture shall be exercised by entry of a declaration of forfeiture in the records of the ~~((commissioner of public lands))~~ department of natural resources. The amount of rock, gravel, sand, or silt taken under the contract shall be reported monthly by the purchaser to the ~~((commissioner of public lands))~~ department of natural resources and payment therefor made on the basis of the royalty provided in the contract.

The ~~((commissioner of public lands))~~ department of natural resources may inspect and audit books, contracts and accounts of each person removing rock, gravel, sand, or silt pursuant to any such contract and make such other investigation and secure or receive any other evidence necessary to determine whether or not the state is being paid the full amount payable to it for the removal of such materials.

Sec. 2. Section 66, chapter 255, Laws of 1927 as amended by section 15, chapter 109, Laws of 1979 ex. sess. and RCW 79.01.264 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department of natural resources may reject any and all bids for leases when the interests of the state shall justify it, and in such case ~~((he))~~ it shall forthwith refund to the person paying the same, any rental and bid deposit upon the return of receipts issued therefor. If the ~~((commissioner))~~ department approves any leasing made by the auctioneer ~~((he))~~ it shall proceed to issue a lease to the ~~((lessee))~~ successful bidder upon a form approved by the attorney general. All such leases shall be in duplicate, both to be signed by the lessee, and by the ~~((commissioner of public lands on behalf of the state, with the seal of the commissioner of public lands attached thereto))~~ department. The original lease shall be forwarded to the lessee and the duplicate copy kept in the office of the ~~((commissioner of public lands))~~ department.

Sec. 3. Section 2, chapter 324, Laws of 1955 as amended by section 21, chapter 109, Laws of 1979 ex. sess. and RCW 79.28.080 are each amended to read as follows:

In order to encourage the improvement of grazing ranges by holders of grazing permits, the ~~((land commissioner))~~ department of natural resources shall consider (1) extension of grazing permit periods to a maximum of ten years, and (2) reduction of grazing fees, in situations where the permittee

contributes or agrees to contribute to the improvement of the range, financially, by labor, or otherwise.

Passed the Senate February 20, 1985.

Passed the House April 15, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 198

[Engrossed Senate Bill No. 4152]

COMMUNITY COLLEGES—RESIDENCY WAIVER—HIGH SCHOOL COMPLETION PROGRAM

AN ACT Relating to tuition and fees at institutions of higher education; and amending RCW 28B.15.520.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 29, chapter 261, Laws of 1969 ex. sess. as last amended by section 8, chapter 37, Laws of 1982 1st ex. sess. and RCW 28B.15.520 are each amended to read as follows:

Notwithstanding any other provision of this chapter or chapter 28B.50 RCW as now or hereafter amended (1) boards of trustees of the various community colleges shall waive general tuition fees, operating fees, and services and activities fees for students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, and (2) the various community college boards may waive the general tuition, operating and services and activities fees for children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(3) Boards of trustees of the various community colleges may waive residency requirements for students enrolled in that community college in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate.

Passed the Senate April 16, 1985.

Passed the House April 9, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 199

[Senate Bill No. 4236]

DEFERRED COMPENSATION COMMITTEE—BONDS, NOTES, OR INTERFUND
LOANS

AN ACT Relating to state government; amending section 2, chapter 242, Laws of 1984 (uncodified); and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 242, Laws of 1984 (uncodified) is amended to read as follows:

(1) There is appropriated six hundred fifty thousand dollars from the deferred compensation revolving fund to the deferred compensation committee for operational activity of the committee for the biennium ending June 30, 1985.

(2) ~~((In order to effect the implementation of the appropriation contained in this section, the deferred compensation committee is authorized to enter into an agreement with the state treasurer, with the consent of the state finance committee, under the authority of RCW 43.84.100. Repayment of any interfund loan agreed to shall be repaid, with appropriate interest, by June 30, 1989:))~~ In order to effect the implementation of the appropriation contained in this section: (a) The state finance committee is authorized to issue six hundred fifty thousand dollars of revenue bonds or notes secured by and payable from the portion of the deferred compensation revolving fund identified as administrative fees. Any such notes or bonds shall be issued under the provisions of chapter 39.42 RCW and shall not constitute general obligations of the state or pledge the full faith, credit, or taxing power of the state to the payment thereof; and(b) the state treasurer, with the consent of the state finance committee, is authorized to make an interfund loan under the authority of RCW 43.84.100 or 43.84.120. The deferred compensation committee is authorized to enter into agreements providing for the payment of such bonds, notes, or interfund loan. Bonds, notes, or all moneys borrowed under this subsection, together with interest thereon, shall be repaid by June 30, 1989.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 15, 1985.

Passed the House April 16, 1985.

Approved by the Governor April 30, 1985.

Filed in Office of Secretary of State April 30, 1985.

CHAPTER 200

[Senate Bill No. 3794]

PUBLIC LAND PURCHASES BY SCHOOLS OR INSTITUTIONS OF HIGHER
EDUCATION

AN ACT Relating to public lands; and amending RCW 79.01.770.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 200, Laws of 1971 ex. sess. as last amended by section 1, chapter 31, Laws of 1982 1st ex. sess. and RCW 79.01.770 are each amended to read as follows:

Notwithstanding the provisions of RCW 79.01.096 or any other provision of law, any school district or institution of higher education(~~(, that on January 1, 1974 was)~~) leasing land granted to the state by the United States and on which land such district or institution has placed improvements as defined in RCW 79.01.036 shall be afforded the opportunity by the department of natural resources at any time to purchase such land, excepting land over which the department retains management responsibilities, for the purposes of schoolhouse construction and/or necessary supporting facilities or structures at the appraised value thereof less the value that any improvements thereon added to the value of the land itself at the time of the sale thereof.

Passed the Senate March 19, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 201

[Engrossed Senate Bill No. 3596]

CRIMINAL JUSTICE INFORMATION—FINGERPRINTS—DISPOSITION
RECORDS—SENTENCED-FELON JAIL FORECAST—SENTENCING
RECORDS—DEPENDENCY RECORDS INVOLVING CHILD ABUSE

AN ACT Relating to criminal justice information; amending RCW 10.98.040, 10.98.050, 10.98.080, 10.98.090, 10.98.100, and 10.98.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 17, Laws of 1984 and RCW 10.98.040 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Arrest and fingerprint form" means the reporting form prescribed by the identification and criminal history section to initiate compiling (~~(felony and serious gross misdemeanor)~~) arrest and identification information.

(2) "Chief law enforcement officer" includes the sheriff or director of public safety of a county, the chief of police of a city or town, and chief officers of other law enforcement agencies operating within the state.

(3) "Department" means the department of corrections.

(4) "Disposition" means the conclusion of a criminal proceeding at any stage it occurs in the criminal justice system. Disposition includes but is not limited to temporary or permanent outcomes such as charges dropped by police, charges not filed by the prosecuting attorney, deferred prosecution, defendant absconded, charges filed by the prosecuting attorney pending court findings such as not guilty, dismissed, guilty, or guilty—case appealed to higher court.

(5) "Disposition report" means the reporting form prescribed by the identification and criminal history section to report the legal procedures taken after completing an arrest and fingerprint form. The disposition report shall include but not be limited to the following types of information:

(a) The type of disposition;

(b) The statutory citation for the arrests;

(c) The sentence structure if the defendant was convicted of a felony;

(d) The state identification number; and

(e) Identification information and other information that is prescribed by the identification and criminal history section.

(6) "Fingerprints" means the fingerprints taken from arrested or charged persons under the procedures prescribed by the Washington state patrol identification and criminal history section.

(7) "Prosecuting attorney" means the public or private attorney prosecuting a criminal case.

(8) "Section" refers to the Washington state patrol section on identification and criminal history.

(9) "Sentence structure" means itemizing the components of the felony sentence. The sentence structure shall include but not be limited to the total or partial confinement sentenced, and whether the sentence is prison or jail, community supervision, fines, restitution, or community service.

Sec. 2. Section 5, chapter 17, Laws of 1984 and RCW 10.98.050 are each amended to read as follows:

(1) Except in the case of juveniles, it is the duty of the chief law enforcement officer or the local director of corrections to transmit within seventy-two hours from the time of arrest to the section fingerprints together with other identifying data as may be prescribed by the section, and statutory violations of any person lawfully arrested, fingerprinted, and photographed under RCW 43.43.735. The disposition report shall be transmitted to the prosecuting attorney.

(2) At the preliminary hearing or the arraignment of a felony case, the judge shall ensure that the felony defendants have been fingerprinted and an

arrest and fingerprint form transmitted to the section. In cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the local director of corrections to initiate an arrest and fingerprint form and transmit it to the section. The disposition report shall be transmitted to the prosecuting attorney.

(3) The chief law enforcement officer of the jurisdiction shall initiate an arrest and fingerprint form for all juveniles who are fifteen years of age or older at the time the offense was committed and who are adjudicated of offenses that would be felonies if the juveniles were adults, and transmit the information within seventy-two hours to the section. The administrator of juvenile court services shall assist the chief law enforcement officer of the jurisdiction in developing procedures for obtaining the identification and disposition information required in this subsection, and the procedures shall be subject to the approval of the juvenile court judge. The juvenile information section of the administrator for the courts may assist the juvenile court with providing the section arrest and fingerprint forms, other identification, or other criminal history information.

Sec. 3. Section 8, chapter 17, Laws of 1984 and RCW 10.98.080 are each amended to read as follows:

The section shall promptly furnish a state identification number to the ~~((chief law enforcement officer))~~ originating agency and to the prosecuting attorney who received a copy of the arrest and fingerprint form. In the case of juvenile felony-like adjudications, the section shall furnish, upon request, the state identification number to the juvenile information section of the administrator for the courts.

Sec. 4. Section 9, chapter 17, Laws of 1984 and RCW 10.98.090 are each amended to read as follows:

(1) In all cases where an arrest and fingerprint form is transmitted to the section, the ~~((prosecuting attorney shall promptly transmit to the section a disposition report following a disposition on the case. The prosecuting attorney shall at the same time forward a copy of all felony conviction disposition reports to the department.~~

~~(2) If the disposition of the criminal charge is made by the arresting agency such as releasing the individual without charge, the arresting agency shall complete the disposition report and forward the information to the prosecuting attorney))~~ originating agency shall code the form indicating which agency is initially responsible for reporting the disposition to the section. Coding shall include but not be limited to the prosecuting attorney, district court, municipal court, or the originating agency.

(2) In the case of a superior court or felony disposition, the prosecuting attorney shall promptly transmit the completed disposition form to the section. In the case of a felony conviction, the prosecuting attorney shall attach a copy of the judgment and sentence form to the disposition form transmitted to the section. In the case of a lower court disposition, the district or

municipal court shall promptly transmit the completed disposition form to the section. For all other dispositions the originating agency shall promptly transmit the completed disposition form to the section.

(3) Until October 1, 1985, the prosecuting attorney, upon a felony conviction, shall also forward a copy of the judgment and sentence form to the department.

Sec. 5. Section 10, chapter 17, Laws of 1984 and RCW 10.98.100 are each amended to read as follows:

The section shall administer a compliance audit at least once annually for each prosecuting attorney, district and municipal court, and originating agency to ensure that all disposition reports have been received and added to the criminal offender record information described in RCW 43.43.705. The section shall prepare listings of all arrests charged and listed in the criminal offender record information for which no disposition report has been received and which has been outstanding for more ~~((that{than}))~~ than nine months since the date of arrest. Each prosecuting attorney, district and municipal court, and originating agency shall be furnished a list of outstanding disposition reports. Cases pending prosecution shall be considered outstanding dispositions in the compliance audit. Within forty-five days, the prosecuting attorney, district and municipal court, and originating agency shall provide the section with a current disposition report for each outstanding disposition. The section shall assist prosecuting attorneys with the compliance audit by cross-checking outstanding cases with the administrator for the courts and the department of corrections. The section may provide technical assistance to prosecuting attorneys, district or municipal courts, or originating agencies for their compliance audits. The results of compliance audits shall be published annually and distributed to legislative committees dealing with criminal justice issues, the office of financial management, and criminal justice agencies and associations.

Sec. 6. Section 14, chapter 17, Laws of 1984 and RCW 10.98.140 are each amended to read as follows:

(1) The section, the department, and the corrections standards board shall be the primary sources of information for criminal justice forecasting. The information maintained by these agencies shall be complete, accurate, and sufficiently timely to support state criminal justice forecasting.

(2) The office of financial management shall be the official state agency for the sentenced felon jail forecast. This forecast shall provide at least a six-year projection and shall be published by December 1 of every even-numbered year beginning with 1986. The office of financial management shall seek advice regarding the assumptions in the forecast from criminal justice agencies and associations.

(3) The sentencing guidelines commission shall keep records on all sentencings above or below the standard range defined by chapter 9.94A RCW. As a minimum, the records shall include the name of the offender,

the crimes for which the offender was sentenced, the name and county of the sentencing judge, and the deviation from the standard range. Such records shall be made available to public officials upon request.

Sec. 7. Section 1, chapter 152, Laws of 1972 ex. sess. as amended by section 17, chapter 17, Laws of 1984 and RCW 43.43.700 are each amended to read as follows:

There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found, pursuant to a dependency proceeding under chapter 13.34 RCW in which the person was a party, to have sexually molested, sexually abused, or sexually exploited a child.

Sec. 8. Section 2, chapter 152, Laws of 1972 ex. sess. as amended by section 14, chapter 314, Laws of 1977 ex. sess. and RCW 43.43.705 are each amended to read as follows:

Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies, or to the department of social and health services, hereinafter referred to as the "department" a transcript of the criminal offender record information or dependency record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.800 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

"Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually molested, sexually abused, or sexually exploited a child.

Applications for information shall be by a data communications network used exclusively by criminal justice agencies or the department or in writing and information applied for shall be used solely in the due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3).

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3). The applicant may appeal such determination and denial of information to the advisory council created in RCW 43.43.785 and the council may direct that the section furnish such information to the applicant.

Sec. 9. Section 7, chapter 36, Laws of 1979 ex. sess. and RCW 43.43-.710 are each amended to read as follows:

Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies and, for the sole purpose of investigating the cause of fires under RCW 48.48.060(2) where the cause is suspected to be arson, to the state fire marshal, upon the filing of an application as provided in RCW 43.43.705.

Dependency record information contained in the files and records of the section shall be considered privileged and shall not be made public. Dependency record information may be disclosed as authorized by this chapter or may be disclosed to the same extent that information regarding dependency proceedings may generally be disclosed, as authorized by applicable laws or court rules.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43-.705 to make application for it.

Sec. 10. Section 4, chapter 152, Laws of 1972 c.l. sess. and RCW 43-.43.715 are each amended to read as follows:

The section shall, consistent with the procedures set forth in this 1972 act, cooperate with all other criminal justice agencies, and the department, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, and persons who are the subject of dependency record information, to the end that proper identification may rapidly be made and the ends of justice served.

Sec. 11. Section 6, chapter 152, Laws of 1972 ex. sess. and RCW 43-.43.725 are each amended to read as follows:

Any copy of a criminal offender record, photograph, fingerprint, or other paper or document in the files of the section, including dependency record information, certified by the chief or his designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040.

Sec. 12. Section 7, chapter 152, Laws of 1972 ex. sess. as amended by section 16, chapter 314, Laws of 1977 ex. sess. and RCW 43.43.730 are each amended to read as follows:

(1) Any individual shall have the right to inspect criminal offender record information, or dependency record information, on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting.

Sec. 13. Section 8, chapter 152, Laws of 1972 ex. sess. and RCW 43-.43.735 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all persons lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor: PROVIDED, That an exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all persons lawfully arrested, or all persons who are the subject of dependency record information.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons lawfully arrested for the commission of any criminal offense, or all persons who are the subject of dependency record information, when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

(4) It shall be the duty of the court having jurisdiction over the dependency action to cause the fingerprinting of all persons who are the subject of dependency record information and to obtain other necessary identifying information, as specified by the section in rules promulgated pursuant to chapter 34.04 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information, when in the discretion of the court it is necessary for proper identification of the person.

Sec. 14. Section 9, chapter 152, Laws of 1972 ex. sess. and RCW 43.43.740 are each amended to read as follows:

Except as provided in RCW 43.43.755 relating to the fingerprinting of juveniles:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually molested, sexually abused, or sexually exploited a child.

(4) The court having jurisdiction over the dependency action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

Sec. 15. Section 13, chapter 152, Laws of 1972 ex. sess. as amended by section 1, chapter 184, Laws of 1983 and RCW 43.43.760 are each amended to read as follows:

(1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his fingerprints to be made, such agency may comply with his request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his identification data.

(2) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, the applicant may request any law enforcement agency to make an impression of his fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the

record of previous crimes committed by the person described on the data submitted, or a transcript of the dependency record information regarding the person described on the data submitted, or if there is no record of his commission of any crimes, or if there is no dependency record information, a statement to that effect.

(3) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes.

Passed the Senate April 16, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 202

[Senate Bill No. 4216]

DENTISTS—WAIVER OF COPAYMENT REQUIREMENTS PROHIBITED

AN ACT Relating to dentistry; and adding a new section to chapter 18.32 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.32 RCW to read as follows:

It is unprofessional conduct under this chapter and chapter 18.130 RCW for a dentist to abrogate the copayment provisions of a contract by accepting the payment received from a third party payer as full payment.

Passed the Senate March 15, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 203

[Engrossed Senate Bill No. 4259]

SEX DISCRIMINATION IN PUBLIC PLACES PROHIBITED

AN ACT Relating to discrimination; and amending RCW 49.60.215 and 49.60.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 14, chapter 37, Laws of 1957 as amended by section 7, chapter 127, Laws of 1979 and RCW 49.60.215 are each amended to read as follows:

It shall be an unfair practice for any person or his agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, sex, the presence of any sensory, mental, or physical handicap, or the use of a trained dog guide by a blind or deaf person: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a handicapped person except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

Sec. 2. Section 3, chapter 183, Laws of 1949 as last amended by section 3, chapter 127, Laws of 1979 and RCW 49.60.040 are each amended to read as follows:

As used in this chapter:

"Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

"Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

"Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

"Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

"Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

"National origin" includes "ancestry";

"Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations,

advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, or with any sensory, mental, or physical handicap, or a blind or deaf person using a trained dog guide, to be treated as not welcome, accepted, desired, or solicited;

"Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: **PROVIDED**, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

"Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

"Real estate transaction" includes the sale, exchange, purchase, rental, or lease of real property.

"Sex" means gender.

"Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to

transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

Passed the Senate March 19, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 204

[House Bill No. 575]

PUBLIC TRANSPORTATION EMPLOYEES—VOLUNTARY PAYROLL DEDUCTIONS FOR POLITICAL ACTION COMMITTEES

AN ACT Relating to public transportation employees; and adding a new section to chapter 35.58 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 35.58 RCW to read as follows:

Any public official authorized to disburse funds in payment of salaries and wages of public transportation employees may, upon written request of the employee, deduct from the salary or wages of the employee, contributions for payment of voluntary deductions for political action committees sponsored by labor or employee organizations with public transportation employees as members. For the purposes of this section, "public transportation employees" means employees of a public transportation system specified in RCW 35.58.272 who are covered by a collective bargaining agreement.

Passed the House March 20, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 205

[Substitute House Bill No. 1153]

VOTER REGISTRATION FACILITIES—POLLING PLACES—ACCESSIBILITY FOR ELDERLY AND HANDICAPPED

AN ACT Relating to accessibility of polling places and voter registration facilities; amending RCW 29.57.010, 29.57.030, and 29.48.007; adding a new section to chapter 29.07 RCW; adding new sections to chapter 29.57 RCW; repealing RCW 29.57.020 and 29.57.060; declaring an emergency; and providing effective dates.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 64, Laws of 1979 ex. sess. and RCW 29.57-.010 are each amended to read as follows:

The intent of this chapter is to ~~((require county auditors to make reasonable efforts))~~ implement Public Law 98-435 which requires state and local election officials, wherever possible, to designate and use ((locations for)) polling places in federal elections and permanent registration locations which are accessible to elderly and handicapped persons~~((, to include the following actions))~~. County auditors are encouraged to:

(1) Make ~~((minor, inexpensive))~~ modifications such as installation of temporary ramps or relocation of ~~((booths))~~ polling places within buildings, where ~~((indicated))~~ appropriate;

(2) ~~((Designation of))~~ Designate new, accessible polling places to replace those ~~((with poor facilities))~~ that are inaccessible; and

(3) ~~((Continued))~~ Continue to use ((of)) polling places and voter registration locations which are accessible to ((people with disabilities)) elderly and handicapped persons.

Sec. 2. Section 3, chapter 64, Laws of 1979 ex. sess. and RCW 29.57-.030 are each amended to read as follows:

The secretary of state, in consultation with the state building code advisory council and local election officials, shall ~~((adopt guidelines by January 1, 1980, for accessibility of))~~ determine standards for accessible polling places as required by this chapter and provide county auditors with these standards by July 1, 1985. These standards shall be revised whenever there are significant amendments to the applicable rules of the state building code advisory council.

NEW SECTION. Sec. 3. No later than April 1st of each even-numbered year until and including 1994, each county auditor shall report to the secretary of state, on the form provided by the secretary of state, a list of all polling places in the county, specifying any that have been found inaccessible. The auditor shall indicate the reasons for inaccessibility, and what efforts have been made pursuant to this chapter to locate alternative polling places or to make the existing facilities temporarily accessible. Each county auditor shall notify the secretary of state of any changes in polling place locations before the next state general election, including any changes required due to alteration of precinct boundaries.

NEW SECTION. Sec. 4. No later than July 1st of each even-numbered year, the secretary of state shall review the reports of the county auditors and shall check each polling place that has been identified as inaccessible under section 3 of this act to verify that every possible effort has been made to comply with this chapter. The secretary of state shall also examine any other polling place which he or she has substantial reason to believe may not comply with the standards established under RCW 29.57.030.

NEW SECTION. Sec. 5. The secretary of state shall establish procedures to assure that, in any state primary or state general election in an even-numbered year, any handicapped or elderly voter assigned to an inaccessible polling place will, upon advance request of that voter, either be permitted to vote at an alternative accessible polling place not overly inconvenient to that voter or be provided with an alternative means of casting a ballot on the day of the primary or election. The county auditor shall make any accommodations in voting procedures necessary to allow the use of alternative polling places by elderly or handicapped voters under this section.

NEW SECTION. Sec. 6. Each polling place for a state primary or state general election in an even-numbered year shall be accessible unless:

(1) The secretary of state has reviewed that polling place, determined that it is inaccessible, that no alternative accessible polling place is available, that no temporary modification of that polling place or any alternative polling place is possible, and that the county auditor has complied with the procedures established under section 5 of this act; or

(2) The secretary of state determines that a state of emergency exists that would otherwise interfere with the efficient administration of that primary or election.

NEW SECTION. Sec. 7. No later than December 31st of each even-numbered year, the secretary of state shall report to the federal election commission, in a manner to be determined by the commission, the number of accessible and inaccessible polling places in the state on the date of the preceding state general election, and the reasons for any instances of inaccessibility.

NEW SECTION. Sec. 8. Each county auditor shall report locations of all permanent voter registration facilities to the secretary of state, indicating which locations meet the standards of RCW 29.57.030. The secretary of state shall determine if the locations and number of accessible registration facilities are reasonable to meet the needs of the elderly and handicapped.

NEW SECTION. Sec. 9. (1) Each county auditor shall provide voting and registration instructions, printed in large type, to be conspicuously displayed at each polling place and permanent registration facility.

(2) The secretary of state shall make information available for deaf persons throughout the state by telecommunications.

NEW SECTION. Sec. 10. The secretary of state shall provide public notice of the availability of registration and voting aids, assistance to elderly and handicapped persons under RCW 29.51.200 and 42 U.S.C. Section 1973aa-6, and procedures for voting by absentee ballot calculated to reach elderly and handicapped persons not later than public notice of the closing of registration for the state primary and state general election in each even-numbered year.

NEW SECTION. Sec. 11. Each county auditor shall include a notice of the accessibility of polling places in the notice of election published under RCW 29.27.030 and 29.27.080 for the state primary and state general election in each even-numbered year.

NEW SECTION. Sec. 12. (1) County auditors shall seek alternative polling places or other low-cost alternatives including, but not limited to, procedural changes and assistance from local disabled groups, service organizations, and other private sources before incurring costs for modifications under this chapter and Public Law 98-435.

(2) In a state primary or state general election in an even-numbered year, the cost of those modifications to buildings or other facilities, including signs designating handicapped accessible parking and entrances, that are necessary to permit the use of those facilities for polling places under this chapter and Public Law 98-435 or any procedures established under section 5 of this act shall be treated as election costs and prorated under RCW 29.13.045.

NEW SECTION. Sec. 13. The secretary of state shall adopt rules to facilitate the implementation of this chapter.

Sec. 14. Section 29.48.007, chapter 9, Laws of 1965 and RCW 29.48.007 are each amended to read as follows:

The ((board of directors)) legislative authority of each ((school)) county, municipality, and special district shall ((cooperate with)), at the request of the county auditor ((by making schools)), make their facilities available for use as polling places ((on the dates on which state primary)) for primaries, special elections, and state general elections ((are)) held within that county. When, in the judgment of the county auditor ((the voters will be best served thereby)), a facility of a county, municipality, or special district would provide a location for a polling place that would best satisfy the requirements of chapter 29.57 RCW, he or she shall notify the ((board of directors of the school district)) legislative authority of that county, municipality, or district of the number of ((schoolrooms desired)) facilities needed for use as polling places. ((The board of directors in cooperation with the county auditor shall designate the schools, schoolrooms or school facilities to be made available for use as such polling places and shall make such schools, schoolrooms or school facilities available for that purpose:)) Payment for ((said)) polling places and any other conditions or obligations regarding these polling places shall be ((made as)) provided for by ((law)) contract between the county auditor and the county, municipality, or district.

NEW SECTION. Sec. 15. A new section is added to chapter 29.07 RCW to read as follows:

(1) A "permanent voter registration facility" means any offices or other locations specifically required to provide voter registration services under

this chapter or the location of any deputy registrar appointed by the county auditor to serve for an indefinite period of time.

(2) A "temporary voter registration facility" means the location of any deputy registrar appointed by the county auditor to serve for a definite or limited period of time.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 64, Laws of 1979 ex. sess. and RCW 29.57.020; and

(2) Section 6, chapter 64, Laws of 1979 ex. sess. and RCW 29.57.060.

NEW SECTION. Sec. 17. Sections 3 through 13 of this act shall be added to chapter 29.57 RCW.

NEW SECTION. Sec. 18. (1) Sections 1, 2, and 13 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Sections 15 and 16 of this act shall take effect as provided by Article II, section 1(c) of the state Constitution.

(3) Sections 3 through 12 and 14 of this act shall take effect on January 1, 1986.

Passed the House March 19, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 206

[Engrossed Substitute House Bill No. 717]

MANDATORY LOCAL MEASURED TELEPHONE SERVICE

AN ACT Relating to pricing of local telephone service; and amending RCW 80.04.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 80.04.130, chapter 14, Laws of 1961 as amended by section 2, chapter 3, Laws of 1984 and RCW 80.04.130 are each amended to read as follows:

(1) (~~Except as provided in subsection (3) of this section,~~) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justice thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a

period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) ~~((The implementation of mandatory local measured telephone service is a major policy change in available telephone service. The commission shall not approve, prior to June 1, 1985, any filings which are under suspension as of February 16, 1984, which are awaiting an order by the commission, or which are filed on or after February 16, 1984, if the filing involuntarily requires any telephone user to pay for all outgoing local telephone calls based on time and/or distance. As to any such filing, the requirements in subsection (1) of this section for the commission to act on that filing within ten months from the date the filing would otherwise go into effect are suspended under this subsection from February 16, 1984, until June 1, 1985. This subsection shall not apply to any service such as land, marine, or air mobile service, or any like service that has traditionally been offered on a measured service basis.))~~ The implementation of mandatory local measured telephone service is a major policy change in available telephone service. The commission shall not accept for filing or approve, prior to June 1, 1987, a tariff filed by a telephone company which imposes mandatory local measured service on any customer or class of customers. This subsection does not apply to land, air, or marine mobile service, or to pay telephone service, or to any service which has been traditionally offered on a measured service basis.

Passed the House March 12, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 207

[Engrossed Substitute Senate Bill No. 4105]

MENTAL PATIENTS WHO HAVE HARASSED OR THREATENED PEOPLE— RELEASE OF CERTAIN RECORDS TO LAW ENFORCEMENT AGENCIES AND VICTIMS

AN ACT Relating to mental illness; and amending RCW 71.05.390.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 44, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 196, Laws of 1983 and RCW 71.05.390 are each amended to read as follows:

The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional or who is not involved in providing services under the community mental health services act, chapter 71.24 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled.

(5) For program evaluation and/or research: PROVIDED, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/

(6) To the courts as necessary to the administration of this chapter.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the board of prison terms and paroles for persons who are the subject of the records and who are committed to the

custody of the department of corrections or board of prison terms and paroles which information or records are necessary to carry out the responsibilities of their office: PROVIDED, That

(a) Only the fact, place, and date of involuntary admission, the fact and date of discharge, and the last known address shall be disclosed upon request; and

(b) The law enforcement and public health officers or personnel of the department of corrections or board of prison terms and paroles shall be obligated to keep such information confidential in accordance with this chapter; and

(c) Additional information shall be disclosed only after giving notice to said person and his counsel and upon a showing of clear, cogent and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained: PROVIDED HOWEVER, That in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.

(8) To the attorney of the detained person.

(9) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of

such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Passed the Senate March 21, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 208

[Substitute Senate Bill No. 4314]

SALMON AND STEELHEAD—NATURAL RUNS ON THE TILTON AND UPPER COWLITZ RIVERS—REINSTATE

AN ACT Relating to preservation of fish runs; amending RCW 75.08.020; adding a new section to chapter 77.04 RCW; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.08.020, chapter 12, Laws of 1955 as last amended by section 7, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.08.020 are each amended to read as follows:

(1) The director shall investigate the habits, supply, and economic use of food fish and shellfish in state and offshore waters.

(2) The director shall make an annual report to the governor on the operation of the department and the statistics of the fishing industry.

(3) The director, in cooperation with the director of game and the dean of the college of fisheries at the University of Washington, shall develop proposals to reinstate the natural salmon and steelhead trout fish runs in the Tilton and upper Cowlitz rivers. The proposals shall include specific recommendations for legislation and estimates of the costs of replenishing the fish runs by 1991, but shall not include alternatives to replenishing the fish runs. Proposals under this subsection shall be submitted by the director and the director of game to the legislature no later than January 1986.

NEW SECTION. Sec. 2. A new section is added to chapter 77.04 RCW to read as follows:

The director, in cooperation with the director of fisheries shall develop proposals to reinstate the natural salmon and steelhead trout fish runs in the Tilton and upper Cowlitz rivers in accordance with RCW 75.08.020(3).

NEW SECTION. Sec. 3. The sum of thirty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the department of fisheries for the purposes of this act. The director of fisheries shall supervise the conduct of the investigation and formulation of the proposals and shall contract with

the college of fisheries at the University of Washington, and the department of game to fulfill the purposes of this act.

Passed the Senate March 11, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 209

[Substitute Senate Bill No. 4190]

INDUSTRIAL INSURANCE APPEALS BOARD—SIGNIFICANT DECISIONS TO BE PUBLISHED—DISPUTE MEDIATION EXPERTISE TO BE DEVELOPED

AN ACT Relating to administrative procedures of the board of industrial insurance appeals; amending RCW 51.52.095; and adding a new section to chapter 51.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 51.52 RCW to read as follows:

The board shall publish and index its significant decisions and make them available to the public at reasonable cost.

Sec. 2. Section 51.52.095, chapter 23, Laws of 1961 as last amended by section 7, chapter 109, Laws of 1982 and RCW 51.52.095 are each amended to read as follows:

(1) The board, upon request of the worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized industrial appeals judge, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or industrial appeals judge conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or industrial appeals judge conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and worker or beneficiary, the board

may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts.

(2) In order to carry out subsection (1) of this section, the board shall develop expertise to mediate disputes informally. Where possible, industrial appeals judges with a demonstrated history of successfully resolving disputes or who have received training in dispute resolution techniques shall be appointed to perform mediation functions. No industrial appeals judge who mediates in a particular appeal may participate in writing the proposed decision and order in the appeal. This section shall not operate to prevent the board from developing additional methods and procedures to encourage resolution of disputes by agreement or otherwise making efforts to reduce adjudication time.

Passed the Senate March 12, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 210

[Engrossed Senate Bill No. 3205]

SCHOOL EMPLOYEES—ACCUMULATION OF LEAVE

AN ACT Relating to accumulation of leave by school employees; and amending RCW 28A.58.099.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 275, Laws of 1983 and RCW 28A.58.099 are each amended to read as follows:

Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW 28A.58.096 and 28A.58.098, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.58.096 and 28A.21.360;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when he returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same

seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

Passed the Senate March 13, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 211

[House Bill No. 158]

DRIVER FINANCIAL RESPONSIBILITY LAW—NONCOMPLIANCE— REINSTATEMENT FEE FOLLOWING SUSPENSION

AN ACT Relating to the suspension of drivers' licenses; and amending RCW 46.20.311.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 27, chapter 121, Laws of 1965 ex. sess. as last amended by section 325, chapter 258, Laws of 1984 and RCW 46.20.311 are each amended to read as follows:

(1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342 or 46.61.515. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the suspension shall remain in effect and the department shall not issue to the person any new, duplicate, or renewal license until the person pays a reinstatement fee of twenty dollars and gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504 or was imposed under RCW 46.20.610(1) (a) or (b), the reinstatement fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date on which the revoked license was surrendered to and received by the department; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; or (e) after the expiration of two years in cases of revocation for the second refusal within five years to submit to a chemical test under RCW 46.20.308. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reinstatement fee in the amount of twenty

dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reinstatement fee shall be fifty dollars. The department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. A resident without a license or permit whose license or permit was denied under RCW 46.20.610 shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020, the suspension shall remain in effect and the department shall not issue to the person any new or renewal license until the person pays a reinstatement fee of twenty dollars. If the suspension is the result of a violation of the laws of another state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reinstatement fee shall be fifty dollars.

Passed the House February 20, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 212

[House Bill No. 1094]

IDENTICARDS—ISSUANCE—RESTRICTION TO NONDRIVERS ELIMINATED

AN ACT Relating to identicards; and amending RCW 46.20.117.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 155, Laws of 1969 ex. sess. as last amended by section 2, chapter 92, Laws of 1981 and RCW 46.20.117 are each amended to read as follows:

(1) The department shall issue "identicards((~~^~~))₂" containing a picture, to ((~~non~~drivers)) individuals for a fee of three dollars((;)). Such fee shall be deposited in the highway safety fund((~~:-PROVIDED, That~~)). The fee shall be the actual cost of production to recipients of continuing public assistance grants under Title 74 RCW who are referred in writing to the department by the secretary of social and health services. To be eligible, each applicant shall produce evidence commensurate to the regulations adopted by the director that positively proves identity. The "identicard"

shall be distinctly designed so that it will not be confused with the official driver's license. The identicard shall be valid for five years.

(2) The department may cancel an "identicard" upon a showing by its records or other evidence that the holder of such "identicard" has committed a violation relating to "identicards" defined in RCW 46.20.336.

Passed the House March 15, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 213

[Engrossed House Bill No. 610]

BOARD OF HEALTH—DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DUTIES AND AUTHORITY CLARIFIED

AN ACT Relating to the state board of health; amending RCW 43.20.050, 43.20A.600, 18.20.020, 18.20.060, 18.20.090, 18.20.110, 18.46.010, 18.46.050, 18.46.060, 19.32.110, 35A.70.070, 69.12.070, 70.01.010, 70.41.010, 70.41.020, 70.41.030, 70.41.040, 70.41.080, 70.41.110, 70.41.120, 70.41.130, 70.41.140, 70.41.150, 70.41.160, 70.41.180, 70.41.190, 43.131.213, and 43.131.214; amending section 3, chapter 243, Laws of 1984 (uncodified); adding a new section to chapter 9.02 RCW; creating a new section; repealing RCW 35A.70.030, 69.20.095, 69.20.100, 70.16.010, 70.16.020, 70.16.030, 70.16.040, 70.16.050, 70.16.060, 70.16.070, 70.16.080, 70.16.090, 70.16.100, 70.16.110, 70.16.120, 70.16.130, 70.16.140, 70.16.150, 70.16.160, 70.16.170, 70.16.180, 70.16.190, 70.16.200, 70.20.010, 70.20.020, 70.20.030, 70.20.040, 70.20.050, 70.20.060, 70.20.070, 70.20.080, 70.20.090, 70.20.100, 70.20.110, 70.20.120, 70.20.130, 70.20.150, 70.20.160, 70.20.165, 70.20.170, 70.20.180, and 70.20.185; declaring an emergency; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43.20.050, chapter 8, Laws of 1965 as last amended by section 49, chapter 141, Laws of 1979 and RCW 43.20.050 are each amended to read as follows:

(1) ~~The state board of health shall ((have supervision of all matters relating to the preservation of the life and health of the people of the state))~~ provide a forum for the development of public health policy in Washington state. It is empowered to hold hearings and explore ways to improve the health status of the citizenry.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules and regulations for the protection of water supplies for domestic use, and such other uses as may affect the public health, and shall adopt standards and procedures governing the design, construction and operation of water supply, treatment, storage, and distribution facilities, as well as the quality of water delivered to the ultimate consumer;

(b) Adopt rules and regulations and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage,

refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities; ((and))

(c) Adopt rules and regulations controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work((:

~~It shall have supreme authority in matters of quarantine, and shall provide by));~~

(d) Adopt rules and regulations ((procedures)) for the imposition and use of isolation and quarantine((:

~~The board shall promulgate)); and~~

(e) Adopt rules and regulations for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules and regulations governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule.

~~((It may also enforce the public health laws of the state and the rules and regulations promulgated by it through the secretary of social and health services in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of social and health services by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county.))~~

(3) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules and regulations adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

~~((The board shall make careful inquiry as to the cause of disease, especially when contagious, infectious, epidemic, or endemic, and take prompt action to control and suppress it.))~~

Sec. 2. Section 43.20.010, chapter 8, Laws of 1965 as last amended by section 46, chapter 141, Laws of 1979 and RCW 43.20A.600 are each amended to read as follows:

The secretary of social and health services shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report ~~((his))~~ the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of social and health services by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

~~((5))~~ (5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

~~((5))~~ (6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of social and health services;

~~((6))~~ (7) Have the same authority as local health officers, except that ~~((he))~~ the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it;

~~((7))~~ (8) Cause to be made from time to time, inspections of the sanitary and health conditions existing at the state institutions, require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report ~~((his))~~ the findings to the governor;

~~((8))~~ (9) Take such measures as ~~((he))~~ the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of social and health services. The secretary is also authorized to accept any funds from the federal

government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

~~((9))~~ (10) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department.

NEW SECTION. Sec. 3. A new section is added to chapter 9.02 RCW to read as follows:

The powers and duties of the state board of health under this chapter shall be performed by the department of social and health services.

Sec. 4. Section 2, chapter 253, Laws of 1957 as amended by section 25, chapter 141, Laws of 1979 and RCW 18.20.020 are each amended to read as follows:

As used in this chapter:

(1) "Aged person" means a person of the age sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

(2) "Boarding home" means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof.

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(4) "Secretary" means the secretary of social and health services.

(5) ~~("Board" means the state board of health.~~

~~(6))~~ "Department" means the state department of social and health services.

~~((7))~~ (6) "Authorized department" means any city, county, city-county health department or health district authorized by the secretary of social and health services to carry out the provisions of this chapter.

Sec. 5. Section 6, chapter 253, Laws of 1957 and RCW 18.20.060 are each amended to read as follows:

The department or the department and authorized department jointly, as the case may be, after notice and opportunity for hearing to the applicant or license holder, is authorized to deny, suspend or revoke a license in any case in which it finds there has been a failure or refusal to comply with the requirements established under this chapter or the regulations promulgated pursuant thereto.

Notice of denial, suspension, or revocation shall be given by registered mail, or by personal service in the manner of service of summons in a civil

action; which notice shall set forth the particular reasons for the proposed denial, suspension or revocation and shall fix a date not less than twenty days from the date of mailing or service, during which the applicant or licensee may in writing request a hearing on the denial, suspension, or revocation. If the applicant or licensee fails to request a hearing within that time, the department or the department and authorized department jointly may deny, suspend or revoke the license without further notice or action. The order of denial, suspension or revocation shall be mailed to the applicant or license holder by registered mail or personally served on him in the manner of service of summons in a civil action.

If the applicant or licensee requests a hearing within such time the department shall fix a time for the hearing and shall give the applicant or licensee or such person's attorney, written notice thereof.

The procedure governing hearings shall be in accordance with rules promulgated by the ((board)) department and such hearing shall be informal and summary, except that a record shall be kept of the testimony taken on behalf of the applicant or licensee and the department, which need not be transcribed unless an appeal is taken therefrom. The department shall render its decision within a reasonable time after the hearing and issue its order, which shall be served on the applicant or licensee or such person's attorney, and the order shall become final unless an appeal is taken therefrom.

Sec. 6. Section 9, chapter 253, Laws of 1957 as amended by section 3, chapter 189, Laws of 1971 ex. sess. and RCW 18.20.090 are each amended to read as follows:

The ((board)) department shall adopt, amend, and promulgate such rules, regulations, and standards with respect to all boarding homes and operators thereof to be licensed hereunder as may be designed to further the accomplishment of the purposes of this chapter in promoting safe and adequate care of individuals in boarding homes and the sanitary, hygienic and safe conditions of the boarding home in the interest of public health, safety, and welfare.

Sec. 7. Section 11, chapter 253, Laws of 1957 and RCW 18.20.110 are each amended to read as follows:

The department or authorized health department shall make or cause to be made at least a yearly inspection and investigation of all boarding homes. Every inspection may include an inspection of every part of the premises and an examination of all records (other than financial records), methods of administration, the general and special dietary and the stores and methods of supply. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given the applicant or licensee and the department. The

~~((board))~~ department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit plans and specifications therefor to the department or to the authorized department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

Sec. 8. Section 2, chapter 168, Laws of 1951 as amended by section 32, chapter 141, Laws of 1979 and RCW 18.46.010 are each amended to read as follows:

(1) "Maternity home" means any home, place, hospital or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(2) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(3) "Department" means the state department of social and health services.

~~((4) "Board" means the state board of health:))~~

Sec. 9. Section 6, chapter 168, Laws of 1951 and RCW 18.46.050 are each amended to read as follows:

The department after notice and opportunity for hearing to the applicant or licensee is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter.

Notice shall be effected by registered mail or by personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty days from the date of mailing or service at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of such hearing or upon default of the applicant or licensee, the department shall make a determination specifying its findings and conclusions. A copy of the determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending, or denying the license or application shall become final thirty days after it is mailed or served, unless the applicant or licensee, within such thirty day period, appeals the decision.

The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the ~~((board))~~ department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed. A copy or copies of the transcript may be obtained by any interested party on

payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party.

Sec. 10. Section 7, chapter 168, Laws of 1951 and RCW 18.46.060 are each amended to read as follows:

The ~~((board))~~ department, after consultation with representatives of maternity home operators, state medical association, Washington Osteopathic Association, state nurses association, state hospital association, and any other representatives as the ~~((board))~~ department may deem necessary, shall adopt, amend, and promulgate such rules and regulations with respect to all maternity homes in the promotion of safe and adequate medical and nursing care of inmates in the maternity home and the sanitary, hygienic and safe condition of the maternity home in the interest of the health, safety and welfare of the people.

Sec. 11. Section 6, chapter 117, Laws of 1943 and RCW 19.32.110 are each amended to read as follows:

(1) No person afflicted with any contagious or infectious disease shall work or be permitted to work in or about any refrigerated locker, nor in the handling, dealing nor processing of any human food in connection therewith.

(2) No person shall work or be permitted to work in or about any refrigerated locker in the handling, processing or dealing in any human food or any ingredient thereof without holding a certificate from a physician, duly accredited for that purpose by the ~~((state board of health))~~ department of social and health services, certifying that such person has been examined and found free from any contagious or infectious disease. The ~~((state board of health))~~ department of social and health services may fix a maximum fee, not exceeding two dollars which may be charged by a physician for such examination. Such certificate shall be effective for a period of six months and thereafter must be renewed following proper physical examination as aforesaid. Where such certificate is required and provided under municipal ordinance upon examination deemed adequate by the ~~((state board of health))~~ department, certificates issued thereunder shall be sufficient under this chapter.

(3) Any such certificate shall be revoked by the ~~((state board of health))~~ department of social and health services at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in such premises to submit to proper and reasonable physical examination upon written demand by the ~~((state board of health))~~ department of social and health services or of the director of agriculture shall be cause for revocation of that person's health certificate.

Sec. 12. Section 35A.70.070, chapter 119, Laws of 1967 ex. sess. as last amended by section 25, chapter 2, Laws of 1981 1st ex. sess. and RCW 35A.70.070 are each amended to read as follows:

Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in chapter 70.05 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) ~~((perform the functions and provide health precautions at seaports as required by chapter 70.16 RCW; (4) procure pesthouses and to provide quarantines and miscellaneous other health precautions as authorized by chapter 70.20 RCW; (5)))~~ control and provide for treatment of venereal diseases as authorized by chapter 70.24 RCW; ~~((6))~~ (4) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, 70.32, and 70.54 RCW; ~~((7))~~ (5) participate in health districts as authorized by chapter 70.46 RCW; ~~((8))~~ (6) exercise control over water pollution as provided in chapter 35.88 RCW; ~~((9))~~ (7) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter 70.58 RCW and RCW 43.20A.630; ~~((10) enforce the provisions of chapter 70.70 RCW relating to the control of shoddy; (11))~~ (8) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; ~~((12))~~ (9) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; ~~((13))~~ (10) enforce the provisions of chapter 18.20 RCW when applicable; ~~((14))~~ (11) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; ~~((15))~~ (12) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and ~~((16))~~ (13) inspect nursing homes as authorized by RCW 18.51.145.

Sec. 13. Section 7, chapter 137, Laws of 1937 and RCW 69.12.070 are each amended to read as follows:

(1) No person afflicted with any contagious or infectious disease shall work or be permitted to work or be employed in any bakery.

(2) No person shall work or be permitted to work in any bakery in storing, preparing, mixing or handling any bakery product or any ingredient thereof without holding a certificate from a physician, duly accredited for that purpose by the state board of health, certifying that such person has been examined and found free from any contagious or infectious disease. The ~~((state board of health))~~ department of social and health services may fix a maximum fee, not exceeding one dollar, which may be charged by a

physician for such examination. Such certificate shall be effective for a period of six months and thereafter must be renewed following proper physical examination as aforesaid. Where such certificate is required and provided under municipal ordinance upon examination deemed adequate by the ~~((state board of health))~~ department, certificates issued thereunder shall be sufficient under this chapter.

(3) Any such certificate shall be revoked by the state board of health at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in a bakery to submit to proper and reasonable physical examination upon written demand of the ~~((state board of health))~~ department of social and health services or the director of agriculture shall be cause for revocation of that person's health certificate.

Sec. 14. Section 12, chapter 102, Laws of 1967 ex. sess. as amended by section 1, chapter 25, Laws of 1969 ex. sess. and RCW 70.01.010 are each amended to read as follows:

In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the ~~((state board of health))~~ department of social and health services shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health.

Sec. 15. Section 1, chapter 267, Laws of 1955 as amended by section 106, chapter 141, Laws of 1979 and RCW 70.41.010 are each amended to read as follows:

The primary purpose of this chapter is to promote safe and adequate care of individuals in hospitals through the development, establishment and enforcement of minimum hospital standards for maintenance and operation. To accomplish these purposes, this chapter provides for:

- (1) The licensing and inspection of hospitals;
- (2) The establishment of a Washington state hospital advisory council;
- (3) The establishment by the ~~((state board of health))~~ department of standards, rules and regulations for the construction, maintenance and operation of hospitals;
- (4) The enforcement by the ~~((Washington state))~~ department ~~((of social and health services))~~ of the standards, rules, and regulations established ~~((by the board))~~ under this chapter.

Sec. 16. Section 2, chapter 267, Laws of 1955 as amended by section 8, chapter 189, Laws of 1971 ex. sess. and RCW 70.41.020 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

(1) "Department" means the Washington state department of social and health services;

(2) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include maternity homes, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations;

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof((;

~~(4) "Board" means the state board of health)).~~

Sec. 17. Section 3, chapter 267, Laws of 1955 as amended by section 9, chapter 189, Laws of 1971 ex. sess. and RCW 70.41.030 are each amended to read as follows:

The ~~((board))~~ department, shall establish and adopt such minimum standards, rules and regulations pertaining to the construction, maintenance and operation of hospitals, and rescind, amend or modify such rules and regulations from time to time, as are necessary in the public interest, and particularly for the establishment and maintenance of standards of hospitalization required for the safe and adequate care and treatment of patients. All rules and regulations to become effective shall be filed with the office of the code reviser.

The ~~((board shall advise and consult with the))~~ department ~~((in matters of policy affecting the administration of this chapter, and))~~ shall conduct fair hearing procedures as provided in RCW 70.41.130.

Sec. 18. Section 4, chapter 267, Laws of 1955 and RCW 70.41.040 are each amended to read as follows:

The enforcement of the provisions of this chapter and the standards, rules and regulations established ~~((hereunder by the board))~~ under this chapter, shall be the responsibility of the department which shall cooperate with the joint commission on the accreditation of hospitals. The ~~((board))~~ department shall advise on the employment of personnel and the personnel shall be under the merit system or its successor.

Sec. 19. Section 8, chapter 267, Laws of 1955 and RCW 70.41.080 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all hospitals to be licensed hereunder shall be the responsibility of the state fire marshal, who shall adopt, after approval by the ~~((board))~~ department, such recognized standards as may be applicable to hospitals for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the state fire marshal in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the state fire marshal or his deputy, shall make an inspection of the hospital to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as adopted pursuant to this chapter, he shall promptly make a written report to the hospital and to the department listing the corrective actions required and the time allowed for accomplishing such corrections. The applicant or licensee shall notify the state fire marshal upon completion of any corrections required by him, and the state fire marshal, or his deputy, shall make a re-inspection of such premises. Whenever the hospital to be licensed meets with the approval of the state fire marshal, he shall submit to the department a written report approving the hospital with respect to fire protection, and such report is required before a full license can be issued. The state fire marshal shall make or cause to be made inspections of such hospitals at least once a year.

In cities which have in force a comprehensive building code, the provisions of which are determined by the state fire marshal to be equal to the minimum standards of the state fire marshal's code for hospitals, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the state fire marshal or his deputy and they shall jointly approve the premises before a full license can be issued.

Sec. 20. Section 11, chapter 267, Laws of 1955 as last amended by section 12, chapter 201, Laws of 1982 and RCW 70.41.110 are each amended to read as follows:

Upon receipt of an application for license and the license fee, the department shall issue a license or a provisional license if the applicant and the hospital facilities meet the requirements of this chapter and the standards, rules and regulations established by the ((board)) department. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department: PROVIDED, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

If there be a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto, the department may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the hospital for a period to be determined by the department.

Sec. 21. Section 12, chapter 267, Laws of 1955 and RCW 70.41.120 are each amended to read as follows:

The department shall make or cause to be made at least yearly an inspection of all hospitals. Every inspection of a hospital may include an inspection of every part of the premises. The department may make an examination of all phases of the hospital operation necessary to determine compliance with the law and the standards, rules and regulations adopted thereunder. Any licensee or applicant desiring to make alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, comply with the regulations prescribed by the ((board)) department.

No hospital licensed pursuant to the provisions of this chapter shall be required to be inspected or licensed under other state laws or rules and regulations promulgated thereunder, or local ordinances, relative to hotels, restaurants, lodging houses, boarding houses, places of refreshment, nursing homes, maternity homes, or psychiatric hospitals.

Sec. 22. Section 13, chapter 267, Laws of 1955 and RCW 70.41.130 are each amended to read as follows:

The department is authorized to deny, suspend, or revoke a license or provisional license in the manner prescribed herein in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards, rules and regulations established hereunder. The department shall issue an order to the applicant or licensee giving notice of any rejection, revocation, or suspension, which order shall become final thirty days after the date of mailing: PROVIDED, That the

applicant or licensee does not within thirty days from the date of mailing of the department's order or rejection, revocation, or suspension of license, make written application to the ~~((board))~~ department for a hearing upon receipt of which the ~~((board))~~ department shall fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed therefor. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the ~~((board))~~ department. The ~~((board))~~ department shall render its decision affirming, modifying, or setting aside the order of the department which decision in the absence of an appeal therefrom as provided by this chapter, shall become final thirty days after the date of mailing.

Sec. 23. Section 14, chapter 267, Laws of 1955 and RCW 70.41.140 are each amended to read as follows:

Within thirty days after the date of mailing of the decision of the ~~((board))~~ department, the interested applicant or licensee may appeal to the superior court of the county of Thurston and such appeal shall be heard as a case in equity, but upon such appeal only such issues of law may be raised as were properly included in the hearing before the ~~((board))~~ department. Proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by serving a notice of appeal on the ~~((chairman of the board))~~ secretary of the department by personal service, or by mailing a copy thereof to the ~~((board))~~ department and by filing the notice of appeal, together with proof of service thereof, with the clerk of the court. The service and the filing, together with proof of the notice of appeal, all within thirty days shall be jurisdictional. The ~~((board))~~ department shall within ten days after receipt of such notice of appeal serve and file a notice of appearance upon appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The ~~((board))~~ department shall serve upon the appellant and file with the clerk of the court before hearing, a certified copy of the complete record of the administrative proceedings which shall, upon being so filed, become the record in such case.

Sec. 24. Section 15, chapter 267, Laws of 1955 and RCW 70.41.150 are each amended to read as follows:

Information received by the ~~((board or the))~~ department through filed reports, inspection, or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure. Such records of the department shall at all times be available to the council and the members thereof.

Sec. 25. Section 16, chapter 267, Laws of 1955 and RCW 70.41.160 are each amended to read as follows:

Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general who shall represent the department (~~and the board~~) in the proceedings, maintain an action in the name of the state for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a hospital without a license under this law.

Sec. 26. Section 18, chapter 267, Laws of 1955 and RCW 70.41.180 are each amended to read as follows:

Nothing contained in this chapter shall in any way authorize the (~~board~~) department to establish standards, rules and regulations governing the professional services rendered by any physician.

Sec. 27. Section 1, chapter 175, Laws of 1975 1st ex. sess. and RCW 70.41.190 are each amended to read as follows:

Unless specified otherwise by the (~~board~~) department, a hospital shall retain and preserve all medical records which relate directly to the care and treatment of a patient for a period of no less than ten years following the most recent discharge of the patient; except the records of minors, which shall be retained and preserved for a period of no less than three years following attainment of the age of eighteen years, or ten years following such discharge, whichever is longer.

If a hospital ceases operations, it shall make immediate arrangements, as approved by the department, for preservation of its records.

The (~~board~~) department shall by regulation define the type of records and the information required to be included in the medical records to be retained and preserved under this section; which records may be retained in photographic form pursuant to chapter 5.46 RCW.

Sec. 28. Section 3, chapter 243, Laws of 1984 (uncodified) is amended to read as follows:

(1) There is created the joint select committee on public health. The committee shall consist of the following members:

(a) Two majority members and two minority members of the senate, to be appointed by the president of the senate;

(b) Two majority members and two minority members of the house of representatives, to be appointed by the speaker of the house of representatives;

(c) The chair of the state board of health or the chair's designee;

(d) The chair of the state health coordinating council or the chair's designee;

(e) The director of the department of veterans affairs or the director's designee;

(f) The secretary of social and health services or the secretary's designee;

(g) A local public health official to be appointed by the president of the senate and the speaker of the house of representatives acting jointly;

(h) A physician licensed under chapter 18.71 RCW to be appointed by the president of the senate and the speaker of the house of representatives acting jointly; and

(i) Two persons who have demonstrated an interest in public health. One of these persons shall be appointed by the president of the senate and the other shall be appointed by the speaker of the house of representatives.

(2) Legislative members of the committee shall be reimbursed for travel expenses by their respective houses as provided under RCW 44.04-.120. Nonlegislative members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. The cost of travel expenses for members appointed under subsection (1) (h) and (i) of this section shall be paid by the senate and the house of representatives, the costs to be divided equally between the two houses.

(3) The committee shall study issues pertaining to public health and report its conclusions and recommendations to the legislature by January 1, 1986, on which date the committee shall cease to exist.

(4) The legislative budget committee, in performing the sunset review of the state board of health pursuant to the requirements of chapter 43.131 RCW, may use the report of the joint select committee on public health submitted under this section.

Sec. 29. Section 33, chapter 99, Laws of 1979 as amended by section 16, chapter 235, Laws of 1983 and RCW 43.131.213 are each amended to read as follows:

The powers and duties of the state board of health shall be terminated on June 30, (~~(+1985)~~) 1986, as provided in RCW 43.131.214.

Sec. 30. Section 75, chapter 99, Laws of 1979 as amended by section 17, chapter 235, Laws of 1983 and RCW 43.131.214 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, (~~(+1986)~~) 1987:

(1) Section 36.62.020, chapter 4, Laws of 1963 and RCW 36.62.020;

(2) Section 43.20.030, chapter 8, Laws of 1965, section 11, chapter 18, Laws of 1970 ex. sess. and RCW 43.20.030;

(3) Section 43.20.050, chapter 8, Laws of 1965, section 9, chapter 102, Laws of 1967 ex. sess., section 49, chapter 141, Laws of 1979 and RCW 43.20.050;

(4) Section 43.20.100, chapter 8, Laws of 1965, section 44, chapter 75, Laws of 1977 and RCW 43.20.100;

(5) Section 43.20.140, chapter 8, Laws of 1965, section 58, chapter 141, Laws of 1979 and RCW 43.20.140;

(6) Section 11, chapter 102, Laws of 1967 ex. sess. and RCW 43.20.200;

- (7) Section 1, chapter 197, Laws of 1957 and RCW 69.06.010;
- (8) Section 2, chapter 197, Laws of 1957 and RCW 69.06.020;
- (9) Section 5, chapter 197, Laws of 1957 and RCW 69.06.050;
- (10) Section 16, chapter 190, Laws of 1939, section 1, chapter 30, Laws of 1961 and RCW 69.16.115;
- (11) Section 17, chapter 190, Laws of 1939, section 2, chapter 30, Laws of 1961 and RCW 69.16.120;
- (12) Section 16, chapter 112, Laws of 1939 and RCW 69.20.095;
- (13) Section 17, chapter 112, Laws of 1939 and RCW 69.20.100;
- (14) Section 3, chapter 144, Laws of 1955 and RCW 69.30.030;
- (15) Section 5, chapter 144, Laws of 1955 and RCW 69.30.050;
- (16) Section 6, chapter 144, Laws of 1955 and RCW 69.30.060;
- (17) (~~Section 12, chapter 102, Laws of 1967 ex. sess., section 1, chapter 25, Laws of 1969 ex. sess. and RCW 70.01.010;~~
- ~~(18))~~ Section 16, chapter 51, Laws of 1967 ex. sess. and RCW 70.05.110;
- ~~((19))~~ (18) Section 4, chapter 114, Laws of 1919 and RCW 70.24.040;
- ~~((20))~~ (19) Section 8, chapter 114, Laws of 1919 and RCW 70.24.070;
- ~~((21))~~ (20) Section 6, chapter 54, Laws of 1967 and RCW 70.28.035;
- ~~((22) Section 3, chapter 267, Laws of 1955, section 9, chapter 189, Laws of 1971 ex. sess. and RCW 70.41.030;~~
- ~~(23))~~ (21) Section 1, chapter 231, Laws of 1969 ex. sess. and RCW 70.54.110;
- ~~((24))~~ (22) Section 6, chapter 177, Laws of 1959 and RCW 70.58.350;
- ~~((25))~~ (23) Section 5, chapter 82, Laws of 1967 and RCW 70.83-.050; and
- ~~((26))~~ (24) Section 1, chapter 176, Laws of 1913, section 12, chapter 130, Laws of 1917, section 1, chapter 160, Laws of 1921, section 1, chapter 46, Laws of 1923, section 1, chapter 79, Laws of 1925 ex. sess., section 1, chapter 240, Laws of 1927 and RCW 85.08.020.

NEW SECTION. Sec. 31. This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

NEW SECTION. Sec. 32. The following acts or parts of acts are each repealed:

- (1) Section 35A.70.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.70.030;
- (2) Section 16, chapter 112, Laws of 1939 and RCW 69.20.095;

- (3) Section 17, chapter 112, Laws of 1939 and RCW 69.20.100;
- (4) Section 1, page 46, Laws of 1888 and RCW 70.16.010;
- (5) Section 2, page 46, Laws of 1888 and RCW 70.16.020;
- (6) Section 3, page 47, Laws of 1888 and RCW 70.16.030;
- (7) Section 4, page 47, Laws of 1888 and RCW 70.16.040;
- (8) Section 5, page 47, Laws of 1888 and RCW 70.16.050;
- (9) Section 6, page 47, Laws of 1888 and RCW 70.16.060;
- (10) Section 7, page 48, Laws of 1888 and RCW 70.16.070;
- (11) Section 8, page 48, Laws of 1888 and RCW 70.16.080;
- (12) Section 9, page 48, Laws of 1888 and RCW 70.16.090;
- (13) Section 10, page 49, Laws of 1888 and RCW 70.16.100;
- (14) Section 11, page 49, Laws of 1888 and RCW 70.16.110;
- (15) Section 2220, Code of 1881 and RCW 70.16.120;
- (16) Section 2221, Code of 1881 and RCW 70.16.130;
- (17) Section 2224, Code of 1881 and RCW 70.16.140;
- (18) Section 2222, Code of 1881 and RCW 70.16.150;
- (19) Section 2223, Code of 1881 and RCW 70.16.160;
- (20) Section 2225, Code of 1881 and RCW 70.16.170;
- (21) Section 2226, Code of 1881 and RCW 70.16.180;
- (22) Section 2227, Code of 1881 and RCW 70.16.190;
- (23) Section 2219, Code of 1881 and RCW 70.16.200;
- (24) Section 12, page 49, Laws of 1888 and RCW 70.20.010;
- (25) Section 13, page 49, Laws of 1888 and RCW 70.20.020;
- (26) Section 14, page 50, Laws of 1888, section 30, chapter 199, Laws of 1969 ex. sess. and RCW 70.20.030;
- (27) Section 2204, Code of 1881 and RCW 70.20.040;
- (28) Section 2205, Code of 1881 and RCW 70.20.050;
- (29) Section 2206, Code of 1881 and RCW 70.20.060;
- (30) Section 2207, Code of 1881 and RCW 70.20.070;
- (31) Section 2208, Code of 1881 and RCW 70.20.080;
- (32) Section 2209, Code of 1881 and RCW 70.20.090;
- (33) Section 2210, Code of 1881 and RCW 70.20.100;
- (34) Section 2211, Code of 1881 and RCW 70.20.110;
- (35) Section 2212, Code of 1881 and RCW 70.20.120;
- (36) Section 2213, Code of 1881 and RCW 70.20.130;
- (37) Section 2215, Code of 1881 and RCW 70.20.150;
- (38) Section 2216, Code of 1881 and RCW 70.20.160;
- (39) Section 2217, Code of 1881 and RCW 70.20.165;
- (40) Section 2218, Code of 1881 and RCW 70.20.170;
- (41) Section 1, chapter 48, Laws of 1901 and RCW 70.20.180; and
- (42) Section 2, chapter 48, Laws of 1901 and RCW 70.20.185.

NEW SECTION. Sec. 33. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect June 30, 1985.

Passed the House March 21, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 214

[Engrossed Senate Bill No. 3846]

SCHOOL IN-SERVICE TRAINING—NEEDS ASSESSMENTS EVERY TWO YEARS

AN ACT Relating to public school in-service training; and amending RCW 28A.71.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 189, Laws of 1977 ex. sess. as amended by section 10, chapter 149, Laws of 1979 and RCW 28A.71.210 are each amended to read as follows:

The superintendent of public instruction is hereby empowered to administer funds now or hereafter appropriated for the conduct of in-service training programs for public school certificated and classified personnel and to supervise the conduct of such programs. The superintendent of public instruction shall adopt rules in accordance with chapter 34.04 RCW that provide for the allocation of such funds to public school district or educational service district applicants on such conditions and for such training programs as he or she deems to be in the best interest of the public school system: PROVIDED, That each district requesting such funds shall have:

(1) Conducted a district needs assessment, to be reviewed and updated at least every two years, of certificated and classified personnel to determine identified strengths and weakness of personnel that would be strengthened by such in-service training program~~((: PROVIDED, FURTHER, That each school district or educational service district requesting funds shall have))~~;

(2) Established an in-service training task force and demonstrated to the superintendent of public instruction that the task force has participated in ((and is supportive of the request for funding of the particular in-service training program)) identifying in-service training needs and goals; and

(3) Demonstrated to the superintendent of public instruction its intention to implement the recommendations of the needs assessment and thereafter the progress it has made in providing in-service training as identified in the needs assessment.

The task force required by this section shall be composed of representatives from the ranks of administrators, building principals, teachers, classified and support personnel employed by the applicant school district or

educational service district, from the public, and from an institution(s) of higher education, in such numbers as shall be established by the school district board of directors or educational service district board of directors.

Passed the Senate March 13, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 215

[Senate Bill No. 3373]

JUDGMENT DEBTORS—SPECIAL PROCEEDINGS—FAILURE TO APPEAR—FEES

AN ACT Relating to costs in supplemental proceedings; and amending RCW 6.32.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 133, Laws of 1893 as last amended by section 6, chapter 45, Laws of 1983 1st ex. sess. and RCW 6.32.010 are each amended to read as follows:

At any time within ten years after entry of a judgment for the sum of twenty-five dollars or over upon application by the judgment creditor, such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by him, to answer concerning the same; and the judge to whom application is made under this chapter may, if it is made to appear to him by the affidavit of the judgment creditor, his agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him before the judge granting the order. Upon being brought before the judge he may be ordered to enter into a bond, with sufficient sureties, that he will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof. If the judgment debtor or other persons against whom the special proceedings are instituted has been served with these proceedings ~~((and fails to answer or appear))~~, the plaintiff shall be entitled to costs of service, notary fees, and ~~((reasonable attorney fees))~~ an appearance fee of twenty-five dollars. If the judgment debtor or other persons fail to answer or appear, the plaintiff shall additionally be entitled to reasonable attorney fees. If a plaintiff institutes special proceedings and fails to appear, a judgment debtor or other person against whom the proceeding was instituted

who appears is entitled to an appearance fee of twenty-five dollars and reasonable attorney fees.

Passed the Senate April 15, 1985.

Passed the House April 9, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 216

[Engrossed Senate Bill No. 4227]

SCOLIOSIS SCREENING

AN ACT Relating to scoliosis screening in public schools; amending RCW 28A.31.130, 28A.31.132, 28A.31.134, 28A.31.136, and 28A.31.140; and adding a new section to chapter 28A.31 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 47, Laws of 1979 and RCW 28A.31.130 are each amended to read as follows:

The legislature recognizes that the condition known as ((idiopathic)) scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of RCW 28A.31.130 through 28A.31.142 is to recognize that a school screening program is an invaluable tool for detecting the number of adolescents with scoliosis. It is the intent of the legislature to insure that the superintendent of public instruction provide and require screening for the condition known as scoliosis of all children in the highest risk age group, grades 5 through ((8)) 10, to ascertain which, if any, of these children have defects requiring corrective treatment.

Sec. 2. Section 2, chapter 47, Laws of 1979 and RCW 28A.31.132 are each amended to read as follows:

As used in ((this chapter)) RCW 28A.31.130 through 28A.31.142, the following terms have the meanings indicated.

(1) "Superintendent" means the superintendent of public instruction of public schools in the state, or his designee.

(2) "Pupil" means a student enrolled in the public school system in the state.

(3) "Scoliosis" includes idiopathic scoliosis and kyphosis.

(4) "Screening" means an examination to be performed on all pupils in grades 5 through ((8)) 10 for the purpose of detecting the condition known as scoliosis, except as provided in section 6 of this 1985 act.

((4)) (5) "Public schools" means the common schools referred to in Article IX of the state Constitution and those schools and institutions of

learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

Sec. 3. Section 3, chapter 47, Laws of 1979 and RCW 28A.31.134 are each amended to read as follows:

The superintendent shall provide for and require the yearly examination of all children attending public schools in grades 5 through ~~((8))~~ 10, except as provided in section 6 of this 1985 act, in accordance with procedures and standards adopted by rule of the state board of health in cooperation with the superintendent of public instruction. The examination shall be made by a school physician, school nurse, qualified licensed health practitioner, or physical education instructor or by other school personnel. Proper training of the personnel in the screening process for scoliosis shall be provided by the superintendent.

Sec. 4. Section 4, chapter 47, Laws of 1979 and RCW 28A.31.136 are each amended to read as follows:

Every person performing the screening under RCW 28A.31.134 shall promptly prepare a record of the screening of each child found to have or suspected of having scoliosis and shall send copies of the records to the parents or guardians of the children. The notification shall include an explanation of ~~((idiopathic))~~ scoliosis, the significance of treating it at an early stage, and the services generally available from a qualified licensed health practitioner for the treatment after diagnosis.

Sec. 5. Section 6, chapter 47, Laws of 1979 and RCW 28A.31.140 are each amended to read as follows:

Any pupil shall be exempt from the examination upon written request of his or her parent or guardian if the parent or guardian certifies that:

(1) The screening conflicts with the philosophical or religious beliefs; or
(2) The student is presently under the care of a health care provider for spinal curvature or a related medical condition.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.31 RCW to read as follows:

After July 1, 1987, the superintendent of public instruction may waive screening for scoliosis for grades 9 and/or 10, notwithstanding RCW 28A.31.132(4) and 28A.31.134, after conducting a cost/benefit analysis of such screening for school years 1985-86 and 1986-87.

Passed the Senate April 15, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 217

[Substitute House Bill No. 124]

VOLUNTEERS OF THE STATE—DEFENSE AND PAYMENT OF TORT CLAIMS
AUTHORIZED

AN ACT Relating to actions against state officers, employees, and authorized agents; amending RCW 4.92.060, 4.92.070, 4.92.130, 4.92.140, and 4.92.150; and adding a new section to chapter 4.92 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 79, Laws of 1921 as last amended by section 1, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.060 are each amended to read as follows:

Whenever an action or proceeding for damages shall be instituted against any state officer, including state elected officials, ~~((or))~~ employee, or volunteer, arising from his acts or omissions while performing, or in good faith purporting to perform, his official duties, such officer ~~((or))~~, employee, or volunteer may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

Sec. 2. Section 2, chapter 79, Laws of 1921 as last amended by section 2, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.070 are each amended to read as follows:

If the attorney general shall find that said officer ~~((or employee's))~~, employee, or volunteer's acts or omissions were, or purported to be in good faith, within the scope of his official duties, said request shall be granted, in which event the necessary expenses of the defense of said action or proceeding shall be paid from the appropriations made for the support of the department to which such officer ~~((or))~~, employee, or volunteer is attached. In such cases the attorney general shall appear and defend such officer ~~((or))~~, employee, or volunteer, who shall assist and cooperate in the defense of such suit.

Sec. 3. Section 7, chapter 159, Laws of 1963 as last amended by section 3, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.130 are each amended to read as follows:

A tort claims revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively for the payment of claims against the state arising out of tortious conduct and against its officers ~~((and))~~, employees, and volunteers for whom the defense of the claim was authorized under RCW 4.92.070. No money shall be paid from the tort claims revolving fund unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(1) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(2) The claim has been approved for payment in accordance with RCW 4.92.140 as herein or hereafter amended.

Sec. 4. Section 8, chapter 159, Laws of 1963 as last amended by section 1, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.140 are each amended to read as follows:

The head or governing body of any agency or department of state government or the designee of any such agency, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise, and settle any claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. for which the state of Washington or any of its officers ((or)),₁ employees, or volunteers would be liable in law for money damages of ten thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington or its affected officer ((or)),₂ employee, or volunteer. A request for administrative settlement shall not preclude a claimant from filing a court action pending administrative determination, limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state.

Sec. 5. Section 9, chapter 159, Laws of 1963 as last amended by section 2, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.150 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers ((or)),₂ employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or upon petition by the state, the attorney general, with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer ((or)),₂ employee, or volunteer.

NEW SECTION. Sec. 6. A new section is added to chapter 4.92 RCW to read as follows:

For the purposes of RCW 4.92.060, 4.92.070, 4.92.130, 4.92.140, and 4.92.150, volunteer is defined in RCW 51.12.035.

Passed the House February 15, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 218

[Engrossed House Bill No. 331]

UNIVERSITY OF WASHINGTON—WASHINGTON STATE UNIVERSITY—
DEGREES—MAJOR LINES—REVISION

AN ACT Relating to higher education; amending RCW 28B.10.115 and 28B.20.060; decodifying RCW 28B.50.610, 28B.50.640, and 28B.50.660; and repealing RCW 28B.10.830, 28B.10.832, 28B.10.834, 28B.10.836, 28B.20.400, 28B.20.402, 28B.30.400, 28B.50.101, 28B.35.220, 28B.40.220, 28B.60.010, 28B.60.020, 28B.60.030, 28B.60.040, 28B.60.050, 28B.60.055, 28B.60.060, 28B.60.070, 28B.60.080, 28B.60.090, 28B.60.100, 28B.60.110, and 28B.60.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28B.10.115, chapter 223, Laws of 1969 ex. sess. and RCW 28B.10.115 are each amended to read as follows:

The courses of instruction of both the University of Washington and Washington State University shall embrace as major lines, (~~liberal arts, pure science,~~) pharmacy, (~~mining,~~) architecture, civil engineering, electrical engineering, mechanical engineering, chemical engineering, (~~home economics,~~) and forest management as distinguished from forest products and logging engineering which are exclusive to the University of Washington. These major lines shall be offered and taught at said institutions only.

Sec. 2. Section 28B.20.060, chapter 223, Laws of 1969 ex. sess. and RCW 28B.20.060 are each amended to read as follows:

The courses of instruction of the University of Washington shall embrace as exclusive major lines, law, medicine, forest products, logging engineering, (~~commerce, journalism,~~) library (~~economy, marine and~~) sciences, aeronautic and astronautic engineering, and fisheries.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 56, Laws of 1971 ex. sess. and RCW 28B.10.830;

(2) Section 2, chapter 56, Laws of 1971 ex. sess. and RCW 28B.10.832;

(3) Section 3, chapter 56, Laws of 1971 ex. sess. and RCW 28B.10.834; and

(4) Section 4, chapter 56, Laws of 1971 ex. sess. and RCW 28B.10.836.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) Section 28B.20.400, chapter 223, Laws of 1969 ex. sess. and RCW 28B.20.400; and

(2) Section 28B.20.402, chapter 223, Laws of 1969 ex. sess., section 3, chapter 163, Laws of 1982 and RCW 28B.20.402.

NEW SECTION. Sec. 5. Section 28B.30.400, chapter 223, Laws of 1969 ex. sess. and RCW 28B.30.400 are each repealed.

NEW SECTION. Sec. 6. Section 3, chapter 282, Laws of 1977 ex. sess. and RCW 28B.50.101 are each repealed.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 52, chapter 169, Laws of 1977 ex. sess. and RCW 28B.35-.220; and

(2) Section 28B.40.220, chapter 223, Laws of 1969 ex. sess, section 71, chapter 169, Laws of 1977 ex. sess. and RCW 28B.40.220.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) Section 28B.60.010, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.010;

(2) Section 28B.60.020, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.020;

(3) Section 28B.60.030, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.030;

(4) Section 28B.60.040, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.040;

(5) Section 28B.60.050, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.050;

(6) Section 28B.60.055, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.055;

(7) Section 28B.60.060, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.060;

(8) Section 28B.60.070, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.070;

(9) Section 28B.60.080, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.080;

(10) Section 28B.60.090, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.090;

(11) Section 28B.60.100, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.100;

(12) Section 28B.60.110, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.110; and

(13) Section 28B.60.120, chapter 223, Laws of 1969 ex. sess. and RCW 28B.60.120.

NEW SECTION. Sec. 9. RCW 28B.50.610, 28B.50.640, and 28B.50.660 are each decodified.

Passed the House March 4, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 219

[House Bill No. 576]

CITIES AND TOWNS—SMALL WORKS ROSTER

AN ACT Relating to cities and towns; and amending RCW 35.22.620 and 35.23.352.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 56, Laws of 1975 1st ex. sess. as amended by section 1, chapter 89, Laws of 1979 ex. sess. and RCW 35.22.620 are each amended to read as follows:

(1) Any public work or improvement of a first class city shall be done by contract pursuant to public notice and call for competitive bids, whenever the estimated cost of such work or improvement, including the cost of materials, supplies, and equipment will exceed the sum of ten thousand dollars: PROVIDED, That whenever this public work or improvement is for construction of water mains, such sum shall be fifteen thousand dollars. When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

(2) In addition to the procedures of subsection (1) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of ~~((thirty))~~ one hundred thousand dollars or less.

(a) The city may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is ~~((thirty))~~ one hundred thousand dollars or less, and the city uses the small works roster, the city shall invite proposals from all appropriate contractors on the small works roster(~~(:)~~): PROVIDED, That not less than five separate appropriate contractors, if available, shall be invited to submit bids on any one contract: PROVIDED FURTHER, That whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. ((Such invitation)) Once a bidder on the small works roster has been offered an opportunity to bid, that bidder

shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a bid. Invitations shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is ~~((thirty))~~ one hundred thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

Sec. 2. Section 35.23.352, chapter 7, Laws of 1965 as last amended by section 2, chapter 89, Laws of 1979 ex. sess. and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public work or improvement by contract or day labor without calling for bids therefor whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment will not exceed the sum of fifteen thousand dollars. Whenever the cost of such public work or improvement, including materials, supplies and equipment, will exceed fifteen thousand dollars, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. Such notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. If there is no official newspaper the notice shall be published in a newspaper published or of general circulation in the city or town. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call. When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. If no bid is received on the first call the council or commission may readvertise and make a second call, or

may enter into a contract without any further call or may purchase the supplies, material or equipment and perform such work or improvement by day labor.

(2) In addition to the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of ~~((twenty))~~ one hundred thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is ~~((twenty))~~ one hundred thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is ~~((twenty))~~ one hundred thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(3) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids: PROVIDED, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.

(4) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(5) For advertisement and competitive bidding to be dispensed with as to purchases between two thousand and four thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be

recorded and open to public inspection and shall be available by telephone inquiry.

Passed the House March 22, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 220

[Engrossed House Bill No. 808]

PROPERTY TAXATION—REPLACEMENT OF PROPERTY THAT WAS DESTROYED

AN ACT Relating to property taxation; amending RCW 36.21.080; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.21.080, chapter 4, Laws of 1963 as last amended by section 4, chapter 46, Laws of 1982 1st ex. sess. and RCW 36.21.080 are each amended to read as follows:

(1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of property under the provisions of RCW 36.21.040 through 36.21.080 shall be considered as of July 31st of that year.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the true cash value of such property shall be reduced for that year by an amount determined as follows, without necessity of taxpayer application under chapter 84.70 RCW:

(a) First take the true cash value of such taxable property before destruction or reduction in value and deduct therefrom the true cash value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction or reduction in value of the property.

(c) If destroyed property is replaced prior to the valuation dates contained in subsection (1) of this section and RCW 36.21.090, the total taxable value for that year shall not exceed the value as of the appropriate valuation date in subsection (1) of this section or RCW 36.21.090 whichever is appropriate.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 221

[Substitute House Bill No. 1080]

CIVIL SERVICE EXEMPTIONS—POSITIONS—INCREASE

AN ACT Relating to exemptions from state civil service; and amending RCW 41.06.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 2, chapter 210, Laws of 1984 and RCW 41.06.070 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of

the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full-time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(23) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules and regulations adopted by the state personnel board pursuant to RCW 41-.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(24) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(25) All employees of the marine employees' commission;

(26) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred (~~seventy-five~~) ~~eighty-seven~~ for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (22) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one

extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982.

Passed the House March 16, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 222

[Senate Bill No. 3008]

USE TAX—VALUE OF ARTICLES OWNED BY OUT-OF-STATE BUSINESSES—REASONABLE RENTAL VALUE

AN ACT Relating to use taxation; and amending RCW 82.12.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.12.010, chapter 15, Laws of 1961 as last amended by section 2, chapter 55, Laws of 1983 1st ex. sess. and RCW 82.12.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe.

In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe: PROVIDED, That in case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures

under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules and regulations as the department of revenue may prescribe.

In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than ninety days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in the first paragraph of this subsection.

In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (a) The retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(2) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state;

(3) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(4) "Retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter;

(5) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services.

Passed the Senate March 1, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 223

[Substitute Senate Bill No. 3302] LAW ENFORCEMENT CHAPLAINS

AN ACT Relating to law enforcement chaplains; and adding a new chapter to Title 41 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The career of a police officer is highly stressful, resulting in unacceptable rates of divorce, alcoholism, low morale and suicide. The nature of law enforcement work requires that much information be kept confidential, unfairly burdening the emotional capacity of law enforcement personnel. Police officers may become the hidden victims of society because of their daily work with crisis.

The legislature finds that law enforcement chaplains can provide emotional support for law enforcement personnel, including counseling, stress management, and family life counseling. The legislature also finds that law enforcement chaplains can serve as a crisis intervention resource for personnel of police, fire, and corrections departments, and medical examiners or coroners.

NEW SECTION. Sec. 2. The Washington state patrol may utilize the services of a volunteer chaplain.

NEW SECTION. Sec. 3. The legislature authorizes local law enforcement agencies to use the services of volunteer chaplains associated with an agency.

NEW SECTION. Sec. 4. The duties of a volunteer law enforcement chaplain include counseling, training, and crises intervention for law enforcement personnel, their families and the general public.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. Sections 1 through 4 of this act shall constitute a new chapter in Title 41 RCW.

Passed the Senate April 15, 1985.

Passed the House April 10, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 224

[Engrossed Senate Bill No. 3415]

ADJUSTABLE INTEREST RATES

AN ACT Relating to authorization of adjustable interest rates not exceeding the higher of twelve percent per annum or four percentage points above the equivalent coupon issue yield; amending RCW 19.52.020; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 80, Laws of 1899 as last amended by section 1, chapter 78, Laws of 1981 and RCW 19.52.020 are each amended to read as follows:

(1) Any rate of interest ((not exceeding)) shall be legal so long as the rate of interest does not exceed the higher of: (a) Twelve percent per annum; or (b) four percentage points above the equivalent coupon issue yield (as published by the Federal Reserve Bank of San Francisco) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the ((preceding)) calendar month(;; agreed to in writing by the parties to the contract, shall be legal, and)) immediately preceding the later of (i) the establishment of the interest rate by written agreement of the parties to the contract, or (ii) any adjustment in the interest rate in the case of a written agreement permitting an adjustment in the interest rate. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest for the loan or forbearance of any money, goods, or things in action((: PROVIDED, That)).

(2)(a) In any loan of money in which the funds advanced do not exceed the sum of five hundred dollars, a setup charge may be charged and collected by the lender, and such setup charge shall not be considered interest hereunder((: PROVIDED FURTHER, That such)).

(b) The setup charge ((does)) shall not exceed four percent of the amount of funds advanced, or fifteen dollars, whichever is the lesser, except that on loans of under one hundred dollars a minimum not exceeding four dollars may be so charged.

(3) Any loan made pursuant to a commitment to lend at an interest rate permitted at the time the commitment is made shall not be usurious. Credit extended pursuant to an open-end credit agreement upon which interest is computed on the basis of a balance or balances outstanding during a billing cycle shall not be usurious if on any one day during the billing cycle the rate at which interest is charged for the billing cycle is not usurious (~~on any day during the billing cycle~~).

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate April 16, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 225

[Senate Bill No. 4110]

SUPERINTENDENT OF PUBLIC INSTRUCTION—ADMINISTRATIVE HEARINGS—OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT

AN ACT Relating to administrative hearings by the office of the superintendent of public instruction; adding a new section to chapter 28A.03 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28A.03 RCW to read as follows:

Whenever a statute or rule provides for a formal administrative hearing before the superintendent of public instruction under chapter 34.04 RCW, the superintendent of public instruction may contract with the office of administrative hearings to conduct the hearing under chapter 34.12 RCW and may delegate to a designee of the superintendent of public instruction the authority to render the final decision.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 20, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 226

[Engrossed Senate Bill No. 4127]

ALCOHOLIC BEVERAGE LICENSES—REVISIONS

AN ACT Relating to alcoholic beverage licenses; amending RCW 66.24.240 and 66.08-.070; and adding new sections to chapter 66.28 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 23-B added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 5, chapter 85, Laws of 1982 and RCW 66.24.240 are each amended to read as follows:

(1) There shall be a license to brewers to manufacture malt liquors, fee per annum to be based on current fiscal year's production at the rate of fifty dollars per thousand barrels, with a maximum fee of two thousand dollars, such license fee to be collected and paid under such rules and regulations as the board shall prescribe.

(2) Any brewery licensed under this section shall also be considered as holding, for the purposes of selling malt liquor of its own production, a beer wholesaler's license under RCW 66.24.250, a beer retailer's license, class B, under RCW 66.24.330, and a beer retailer's license, class E, under RCW 66.24.360 without further application or fee. Any brewery operating as a wholesaler or retailer under this subsection shall comply with the applicable laws and rules relating to such wholesalers and retailers.

Sec. 2. Section 67, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 209, Laws of 1973 1st ex. sess. and RCW 66.08.070 are each amended to read as follows:

(1) Every order for the purchase of liquor shall be authorized by the board, and no order for liquor shall be valid or binding unless it is so authorized and signed by the board or its authorized designee.

(2) A duplicate of every such order shall be kept on file in the office of the board.

(3) All cancellations of such orders made by the board shall be signed in the same manner and duplicates thereof kept on file in the office of the board. Nothing in this title shall be construed as preventing the board from accepting liquor on consignment.

(4) In the purchase of wine or malt beverages the board shall not require, as a term or condition of purchase, any warranty or affirmation with respect to the relationship of the price charged the board to any price charged any other buyer.

NEW SECTION. Sec. 3. A new section is added to chapter 66.28 RCW to read as follows:

It is unlawful for a manufacturer of wine or malt beverages holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a brewer's license, or a domestic winery license to discriminate in price in selling to any purchaser for resale in the state.

NEW SECTION. Sec. 4. A new section is added to chapter 66.28 RCW to read as follows:

It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer wholesaler's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine wholesaler's license within the state of Washington to modify any prices without prior notification to and approval of the board.

Passed the Senate April 15, 1985.

Passed the House April 9, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 227

[Substitute Senate Bill No. 4294]

INDUSTRIAL INSURANCE PREMIUMS—THREE-MONTH PENALTY-FREE PERIOD FOR NONCOMPLYING EMPLOYERS

AN ACT Relating to penalties imposed under Title 51 RCW; amending RCW 51.48.100; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 51.48.100, chapter 23, Laws of 1961 and RCW 51.48.100 are each amended to read as follows:

(1) The director may waive the whole or any part of any penalty charged under this title.

(2) Until June 30, 1986: (a) The director may, at his or her discretion, declare a penalty-free period of no more than three months only for employers who have never previously registered under RCW 51.16.110 for eligible employees under Title 51 RCW; and (b) such employers may qualify once for penalty-free status upon payment of up to one year's past due premium in full and satisfaction of the requirements of RCW 51.16.110. Such employers shall be subject to all penalties for any subsequent failure to comply with the requirements of this title.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate March 12, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.

CHAPTER 228

[Substitute Senate Bill No. 3125]
QUINAULT TRIBAL HIGHWAY

AN ACT Relating to the Quinault Tribal Highway; adding new sections to chapter 47.20 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The department of transportation is authorized to enter into a cooperative agreement with the governing authority for the Indian peoples of the Quinault Indian Reservation and appropriate agencies of the United States for the location, design, right of way acquisition, construction, and maintenance of a highway beginning at the south boundary of the Quinault Indian reservation on state route number 109, thence northerly along the present right of way of state route number 109 to the township line, thence inland and northerly across the Raft river to an intersection with state route number 101 south of Queets. The highway shall be known as the "Tribal Highway" and may also be designated by the department as state route number 109. It is anticipated that this highway construction will be funded from federal sources other than normal federal aid highway allocations.

NEW SECTION. Sec. 2. As a part of the agreement, the department may assume responsibility for the operation and maintenance and future improvement of the highway. The agreement may also reserve to the governing authority for the Indian peoples of the Quinault Indian Reservation authority to construct public road intersections or grade separation crossings of the highway. Existing rights of access from adjoining property to existing state route number 109 from the south reservation boundary to the township line shall not be affected by sections 1 through 6 of this act or the agreement authorized by section 1 of this act.

NEW SECTION. Sec. 3. The department is authorized to determine the location of the highway from the township line to a junction with state route number 101 after consultations with the governing authority for the Indian peoples of the Quinault Indian Reservation and the bureau of Indian affairs. The department may then proceed with the establishment of this section of the highway as a limited access facility in the manner prescribed

in RCW 47.52.131 through 47.52.137 and 47.52.195 (and the administrative rules adopted by the department to implement those sections), subject, however, to the following conditions: (1) The access report required by RCW 47.52.131 shall be approved by the governing authority for the Indian peoples of the Quinault Indian Reservation before public hearings; and (2) the final limited access plan adopted pursuant to RCW 47.52.137 at the conclusion of the public hearing, or after any appeal from it has been decided, shall be approved by the governing authority for the Indian peoples of the Quinault Indian Reservation and the bureau of Indian affairs before right of way is acquired for this section of highway.

NEW SECTION. Sec. 4. The department is authorized to acquire the remaining right of way for the Tribal Highway by purchase or by condemnation under state or federal eminent domain statutes. The secretary of transportation pursuant to the agreement is authorized to convey by deed to the governing authority for the Indian peoples of the Quinault Indian Reservation the right of way to the entire highway when fully acquired in return for a conveyance by the governing authority for the Indian peoples of the Quinault Indian Reservation to the state of Washington of a perpetual easement for public travel on the through lanes and shoulders of the highway when constructed. The agreement may also authorize the governing authority for the Indian peoples of the Quinault Indian Reservation to convey to the United States an easement to construct, maintain, and repair the highway improvements if such an easement is required by regulations of the bureau of Indian affairs.

NEW SECTION. Sec. 5. Except as otherwise provided by sections 1 through 6 of this act or by the agreement authorized by section 1 of this act, the department may proceed with the location, design, acquisition of right of way, construction, and maintenance of the highway as an agent of the governing authority for the Indian peoples of the Quinault Indian Reservation in accordance with applicable state or federal law.

NEW SECTION. Sec. 6. The department is authorized to join with the governing authority for the Indian peoples of the Quinault Indian Reservation to seek federal funding for the construction of the Tribal Highway.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall be added to chapter 47.20 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 8, 1985.

Filed in Office of Secretary of State May 8, 1985.

CHAPTER 229

[Second Substitute House Bill No. 738]

COMMUNITY ECONOMIC DEVELOPMENT—COMMUNITY REVITALIZATION
TEAM

AN ACT Relating to community economic development; adding a new chapter to Title 43 RCW; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires to the contrary, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community development.

(2) "Director" means the director of the department.

(3) "Distressed area" means: (a) A county that has an unemployment rate that is twenty percent above the state-wide average for the previous three years; or (b) a community that has experienced sudden and severe loss of employment; or (c) an area within a county which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Team" means the community revitalization team.

(5) "Technical assistance" includes, but is not limited to, assistance with strategic planning, market research, business plan development review, organization and management development, accounting and legal services, grant and loan packaging, and other assistance which may be expected to contribute to the redevelopment and economic well-being of a distressed area.

NEW SECTION. Sec. 2. There is established within the department a community revitalization team. The team shall be responsible for providing comprehensive technical and business assistance to distressed areas.

NEW SECTION. Sec. 3. The team shall be a combined effort of the department, the employment security department, the commission for vocational education, and the department of commerce and economic development or its successor agency. Each agency shall provide staff to the team as expertise is needed. The team shall have the ability to:

(1) Identify emerging problems for businesses, workers, and communities and provide for timely communication on available assistance by state and federal programs;

(2) Assist employers and workers faced with substantial business reductions by providing examples of responses to retain business production and diversification and promote retraining and reemployment of unemployed workers using links with local economic development efforts;

(3) Examine the economic health of a community, including the economic base and its strengths, weaknesses, and untapped opportunities;

(4) Assist to develop and coordinate industry services for tourist promotion and recruiting new firms to the area;

(5) Provide technical assistance as to the potential viability of a business retention effort;

(6) Convene meetings of local business, labor, and education leaders and public officials to determine immediate and long-range steps to revitalize the community;

(7) Conduct work shops in distressed areas or state-wide conferences on problems in revitalizing stagnant communities, models for redevelopment and diversification, and means to bring additional resources to developing solutions; and

(8) Utilize funds to match local and private resources to assist in the analysis and implementation of business retention and expansion efforts.

NEW SECTION. Sec. 4. The team's response shall be triggered by a request made by community leaders to the director. The director may direct the team to explore initial opportunities in an economically distressed area by convening meetings with local groups. A formal request shall be made that details the type of assistance needed, local resources available to help with the effort, and a description of the problems or opportunities where the team is needed. In making a decision on the extent to which the team is needed in a distressed area, the director shall consider community initiative, degree of distress, market conditions for business opportunities, resources available for the effort, and expected outcomes. The director shall respond to a formal request for services within seven days of receipt of the request.

NEW SECTION. Sec. 5. (1) The team shall assist in the preparation of an action plan together with community leaders as to the best strategies for facilitating revitalization efforts.

(2) The team shall prepare a problem statement which identifies the causes and reasons for distress in the affected area.

(3) The team shall recommend to the director methods to use private, state, and federal resources and shall analyze their potential costs and benefits.

(4) The director shall work with the governor and other state and federal agencies to determine the availability of resources and appropriate courses of action.

(5) The director shall encourage the direct application of private resources in the analysis and development of solutions.

(6) The director shall assist in the dissemination of the action plan at a public meeting of interested groups in the distressed area.

NEW SECTION. Sec. 6. Appropriations to any agency for the purposes of this chapter shall be used in accordance with the following rules:

(1) The agency shall give preference to projects which have been developed by action of the team and are requested by the director.

(2) The agency shall attempt to ensure that funds available to its program for distressed areas are reasonably available throughout the biennium.

(3) The agency may spend the funds available to it for activities in distressed areas without the director's request.

(4) If funds to be spent in distressed areas are not used by February 1 of the second year of the biennium or are not requested for use by the director, then these funds shall be released for use by the agency under the activities for which they were generally intended.

NEW SECTION. Sec. 7. In the administration of this chapter, the department may:

(1) Accept gifts and grants from public and private sources; and

(2) Request the cooperation of state, local, and federal agencies.

NEW SECTION. Sec. 8. The department of commerce and economic development or its successor agency shall provide the team and leaders in the distressed area with assistance including but not limited to the following:

(1) Identifying sources of assistance to firms to diversify production or to reuse unused plant capacity;

(2) Identifying raw materials suppliers, subcontractors, and other product needs which can be used locally;

(3) Facilitating marketing of firms to locate in the area or the marketing of a firm scheduled for closure;

(4) Assisting with tourist promotion activities; and

(5) Assisting with site improvements.

NEW SECTION. Sec. 9. The employment security department shall provide the team and leaders in the distressed area with assistance including but not limited to the following:

(1) Establishing links between service delivery areas as created under the federal job training partnership act and businesses and persons needing training resources in distressed areas;

(2) Providing labor market information and wage and benefit reports;

(3) Informing new and existing firms of retraining funding sources; and

(4) Locating suitable employees, including displaced workers, for new employment opportunities.

NEW SECTION. Sec. 10. The commission for vocational education shall provide the community revitalization team and community leaders in the distressed area with assistance, including but not limited to:

(1) Establish links between service delivery areas and training providers to provide services under the education coordination and grants program of the federal job training partnership act;

(2) Assist in the delivery of education and training services to distressed areas;

(3) Address the needs of distressed areas and the allocation of federal vocational education funds to those areas in the development of the state plan for vocational education; and

(4) Assist in the development of partnerships between educational institutions and businesses that can benefit from job skills program grants.

NEW SECTION. Sec. 11. The department shall produce an annual report for the governor and legislature on activities of the team.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act shall constitute a new chapter in Title 43 RCW.

****NEW SECTION. Sec. 13. If specific funding for the purposes of this act, referencing this act by bill number, is not provided in the omnibus appropriations act for the fiscal year beginning July 1, 1985, this act shall be null and void.***

*Sec. 13 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the House March 15, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 10, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 13, Second Substitute House Bill No. 738, entitled:

"AN ACT Relating to community economic development."

I strongly support the "community revitalization team" approach contained in this bill for a coordinated effort by state agencies to assist the leaders of distressed communities in planning and implementing programs to achieve economic stabilization and recovery.

Section 13 of the bill stipulates that this legislation "shall be null and void" if funding is not specifically provided for it in the omnibus appropriations act for the fiscal year beginning July 1, 1985. While the omnibus appropriations act for the 1985-87 biennium has not yet been enacted, funding for Second Substitute House Bill No. 738 was specifically provided for in the Senate and House budget proposals. Accordingly, I have vetoed Section 13.

The remaining sections of Second Substitute House Bill No. 738 are approved."

CHAPTER 230

[Engrossed Substitute House Bill No. 760]

WASHINGTON CONSERVATION CORPS—YOUTH EMPLOYMENT EXCHANGE

AN ACT Relating to youth employment; amending RCW 50.65.110, 43.220.070, and 43.220.900; adding new sections to chapter 43.220 RCW; repealing RCW 43.220.100, 43.220.110, and 43.220.200; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.220 RCW to read as follows:

The department of employment security shall select, approve, and evaluate the success of projects and work agreements under this chapter and chapter 50.65 RCW. The Washington conservation corps coordinating council, as created by RCW 43.220.190 shall recommend work projects to the employment security department for approval.

NEW SECTION. Sec. 2. A new section is added to chapter 43.220 RCW to read as follows:

Sixty percent of the general funds available to the youth employment exchange as prescribed in chapter 50.65 RCW, and the Washington conservation corps shall be for enrollees and members from distressed areas and for projects in distressed areas. A distressed area shall mean: (1) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (2) a community which has experienced sudden and severe loss of employment; or (3) an area within a county which area: (a) Is composed of contiguous census tracts; (b) has a minimum population of five thousand persons; (c) the median household income is at least thirty-five percent below the county's median household income, as determined from data collected for the previous United States ten-year census; and (d) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

The department of employment security shall evaluate projects on the basis of average cost per enrollee, public benefit of the proposed project, opportunity for placement of enrollees and corps members, degree of public

and private support, and coordination of projects with other agencies. A training plan shall be developed for each corps member and enrollee. Preference shall be given to persons not less than eighteen years of age, and not older than twenty-three years of age. The department of employment security shall ensure the availability of corps members to respond to emergency projects and needs as they arise.

Agencies which do not develop projects which meet the department's requirements in the biennium, and result in unexpended funds, shall have those unexpended funds go to other distressed areas to encourage the recruitment of disadvantaged unemployed youth.

NEW SECTION. Sec. 3. A new section is added to chapter 43.220 RCW to read as follows:

(1) Not more than fifteen percent of the funds available for the Washington conservation corps and the youth employment exchange prescribed in chapter 50.65 RCW shall be expended for the cost of administration. For the purpose of this chapter, administrative costs are defined as including, but not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, payroll, development of program reports, normal recruitment and placement procedures, standard office space, and costs and utilities.

(2) The fifteen percent limitation does not include costs for any of the following: Program support activities such as direct supervision of enrollees, counseling, job training, equipment, and extraordinary recruitment procedures necessary to fill project positions.

(3) The total costs for all items included under subsection (1) of this section and excluded from the fifteen percent lid under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the Washington conservation corps and the youth employment exchange programs; or (b) result in the average cost per enrollee exceeding seven thousand dollars. The tests included in items (a) and (b) of this subsection are in the alternative and it is only required that one of these tests be satisfied. For purposes of this section, the term administrative costs does not include those extraordinary placement costs of the department of employment security for which the department is eligible for reimbursement under section 4 of this act. The provisions of this section apply separately to each corps agency listed in RCW 43.220.020.

NEW SECTION. Sec. 4. A new section is added to chapter 43.220 RCW to read as follows:

Staff support to the department of employment security shall be provided by the Washington conservation corps coordinating council as established in RCW 43.220.190. The employment security department shall be the central administrative authority for data on projects, project requests, applicants and reports to the legislature. The department shall be reimbursed by the Washington conservation corps agencies specified in RCW

43.220.020. Reimbursement shall be for reasonable administrative costs associated with the department's role as the central administrative authority and for extraordinary placement costs incurred for the corps agencies. The Washington conservation corps coordinating council is to develop the most cost-effective administrative system to provide training, payroll, and purchasing services to the conservation corps agencies and present the system to the department for approval. The department shall select the administrative system which best meets the purposes of this chapter, and is cost-efficient.

NEW SECTION. Sec. 5. A new section is added to chapter 43.220 RCW to read as follows:

A nonprofit corporation which contracts with an agency listed in RCW 43.220.020 to provide a specific service, appropriate for the administration of this chapter which the agency cannot otherwise provide, may be reimbursed at the discretion of the agency for the reasonable costs the agency would absorb for providing those services.

Sec. 6. Section 11, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.110 are each amended to read as follows:

~~((Not more than the federal minimum wage or subsistence living allowance;))~~ The compensation received shall be considered a training and subsistence allowance. Comprehensive medical insurance, and medical aid shall be paid for the enrollees in the youth employment exchange by the commissioner in accordance with the standards and limitations of the appropriation provided for this chapter. The department shall give notice of coverage to the director of labor and industries after enrollment. The department shall not be deemed an employer of an enrollee for any other purpose.

Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to enrollees.

Sec. 7. Section 7, chapter 40, Law of 1983 1st ex. sess. and RCW 43.220.070 are each amended to read as follows:

(1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both

urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(3) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by federal law: **PROVIDED**, That ~~((the conservation corps shall be operated, to the maximum extent possible, as a residential program and corps members being provided housing shall receive a stipend))~~ if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(4) Corps members are to be available at all times for emergency response services coordinated through the department of emergency services or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies.

***Sec. 8, Section 22, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.900 are each amended to read as follows:**

The Washington conservation corps shall cease to exist and chapter 43.220 RCW shall expire on July 1, 1987, unless extended by law for an additional fixed period of time.

***Sec. 8 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.100;

(2) Section 11, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.110; and

(3) Section 21, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.200.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 10, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Engrossed Substitute House Bill No. 760, entitled:

"AN ACT Relating to youth employment."

Section 8 of the bill repeats the text of the existing statute on the expiration date of the Washington Conservation Corps with no changes. Since Section 8 contains no amendatory language it is an unnecessary part of the bill.

With the exception of Section 8 which I have vetoed, the remainder of Engrossed Substitute House Bill No. 760 is approved."

CHAPTER 231

[Substitute House Bill No. 1061]

SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER

AN ACT Relating to international trade assistance; amending RCW 43.210.010, 43.210.020, 43.210.030, 43.210.040, and 43.210.050; amending section 7, chapter 20, Laws of 1983 1st ex. sess. (uncodified); adding new sections to chapter 43.131 RCW; creating new sections; repealing RCW 43.210.010, 43.210.020, 43.210.030, 43.210.040, 43.210.050, and 43.210.060; repealing section 7, chapter 20, Laws of 1983 1st ex. sess. and section 6 of this 1985 act (uncodified); repealing section 7 of this 1985 act (uncodified); repealing section 8 of this 1985 act (uncodified); repealing section 9 of this 1985 act (uncodified); and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 20, Laws of 1983 1st ex. sess. and RCW 43.210.010 are each amended to read as follows:

The legislature finds:

(1) The exporting of goods and services from Washington to international markets is an important economic stimulus to the growth ~~((and))~~, development, and stability of ((many)) the state's businesses, and ~~((the economic activities associated with exporting make an important contribution to the economic well-being of the state))~~ that these economic activities create needed jobs for Washingtonians.

(2) Impediments to the entry of many small and medium-sized businesses into export markets have restricted growth in exports from the state.

(3) Particularly significant impediments for many small and medium-sized businesses are the lack of easily accessible information about export opportunities and ~~((export))~~ financing alternatives ~~((, and the limited availability of export financing at reasonable costs from conventional financing sources for many small and medium-sized businesses)).~~

(4) There is a need for ~~((an))~~ a small business export finance assistance center which will specialize in providing export assistance to small and medium-sized businesses throughout the state ~~((in the financing of export transactions and))~~ in acquiring information about export opportunities and financial alternatives for exporting.

Sec. 2. Section 2, chapter 20, Laws of 1983 1st ex. sess. and RCW 43-210.020 are each amended to read as follows:

A nonprofit corporation, to be known as the small business export finance assistance center, and branches subject to its authority, may be formed under chapter 24.03 RCW for the following public purposes:

(1) To assist small and medium-sized businesses in the financing of export transactions.

(2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and ~~((export))~~ financing alternatives.

(3) To provide information to and assist those businesses interested in exporting products, including the opportunities available to them in organizing export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets.

Sec. 3. Section 3, chapter 20, Laws of 1983 1st ex. sess. and RCW 43-210.030 are each amended to read as follows:

The small business export finance assistance center and its branches shall be governed and managed by a board of ~~((eleven))~~ seventeen directors appointed by the governor and confirmed by the senate. The directors shall serve terms of six years except that two of the original directors shall serve for two years and two of the original directors shall serve for four years. The directors may provide for the payment of their expenses. The directors shall include a representative of a not-for-profit corporation formed for the purpose of facilitating economic development, ~~((a))~~ at least two representatives of ~~((a))~~ state financial institutions engaged in the financing of export transactions, a representative of a port district, and a representative of organized labor. Of the remaining board members, there shall be a representative of the governor, ~~((and four representatives of businesses: (a)))~~ one representative of business from the area west of Puget Sound, ~~((b))~~ one representative of business from the area east of Puget Sound and west of the Cascade range, ~~((c))~~ one representative of business from the area east of the Cascade range and west of the Columbia river, and ~~((d))~~ one representative of business from the area east of the Columbia river. One of the directors shall be a representative of the public selected from the area in the state west of the Cascade mountain range and one director shall be a representative of the public selected from that area of the state east of the

Cascade mountain range. One director shall be a representative of the public at large. The directors shall be broadly representative of geographic areas of the state, and the ~~((three))~~ representatives of businesses shall represent at least four different industries in different sized businesses as follows: (a) One representative of a company employing fewer than one hundred persons; (b) one representative of a company employing between one hundred and five hundred persons; and (c) two representatives of companies employing more than five hundred persons. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term. ~~((Upon expiration of the terms of each of the original directors, the governor shall appoint directors for six-year terms.))~~

Sec. 4. Section 4, chapter 20, Laws of 1983 1st ex. sess. and RCW 43.210.040 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall have the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans to Washington businesses with annual sales of twenty-five million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries. Loans by ~~((an))~~ the small business export finance assistance center under this chapter shall not compete with nor be a substitute for available loans by a bank or other financial institution and shall only be considered upon a financial institution's assurance that such loan is not available;

(c) Provide loan guarantees on loans made by financial institutions to businesses with annual sales of one hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries;

(d) Establish and regulate the terms and conditions of any such loans and loan guarantees and charges for interest and services connected therewith; ~~((and))~~

(e) Provide export financial counseling to Washington exporters with annual sales of one hundred million dollars or less, provided that such counseling is not available from a Washington for-profit business. For such counseling, the center may charge such fees as it determines are necessary.

(f) Contract with the federal government and its agencies to become a program administrator for federally provided country risk insurance programs and for the purposes of this chapter; and

(g) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation and shall report to the governor and legislature each January 1st on the amounts it has secured from nonstate funding sources.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 5. Section 5, chapter 20, Laws of 1983 1st ex. sess. and RCW 43.210.050 are each amended to read as follows:

The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 is eligible to receive consideration for a contract under this chapter from the department of commerce and economic development or its statutory successor. The contract shall require the center to provide export assistance services ~~((and))~~₂ may not have a duration of longer than two years, and shall require the center to aggressively seek to fund its continued operation from nonstate funds. The contract shall also require the center to report at least twice annually to the department on its success in obtaining nonstate funding. ((The center, including its branch, for the biennium ending June 30, 1985, may not have more than one contract with the department of commerce and economic development or its statutory successor:))

Sec. 6. Section 7, chapter 20, Laws of 1983 1st ex. sess. (uncodified) is amended to read as follows:

The director of commerce and economic development or its statutory successor shall: (a) Report to the governor and the legislature before ~~((October 1, 1985))~~ December 1, 1985, concerning the contract made with the small business export finance assistance center under this chapter during the ~~((1983-85))~~ 1985 biennium, and the operations and activities of the small business export finance assistance center during that period; and (b) make a report to the small business export finance assistance center by September 1, ~~((1983))~~ 1985, and at least annually thereafter as to products and services the department or its statutory successor has been able to identify and has targeted as those products and services which are sought by foreign

markets. Upon request the department or its statutory successor shall furnish a copy of its report to the small business export finance assistance center to any interested party.

NEW SECTION. Sec. 7. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the export assistance center shall be delivered to the custody of the small business export finance assistance center. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the export assistance center shall be made available to the small business export finance assistance center. All funds, credits, or other assets held by the export assistance center shall be assigned to the small business export finance assistance center.

Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

NEW SECTION. Sec. 8. All existing contracts and obligations shall remain in full force and shall be performed by the small business export finance assistance center.

NEW SECTION. Sec. 9. The transfer of the powers, duties, and functions of the export assistance center shall not affect the validity of any act performed prior to the effective date of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 43.131 RCW to read as follows:

The small business export finance assistance center and its powers and duties shall be terminated on June 30, 1990, as provided in section 11 of this 1985 act.

NEW SECTION. Sec. 11. A new section is added to chapter 43.131 RCW to read as follows:

The following acts, or parts of acts, as now existing or hereafter amended are each repealed, effective June 30, 1991:

(1) Section 1, chapter 20, Laws of 1983 1st ex. sess., section 1 of this 1985 act and RCW 43.210.010;

(2) Section 2, chapter 20, Laws of 1983 1st ex. sess., section 2 of this 1985 act and RCW 43.210.020;

(3) Section 3, chapter 20, Laws of 1983 1st ex. sess., section 3 of this 1985 act and RCW 43.210.030;

(4) Section 4, chapter 20, Laws of 1983 1st ex. sess., section 4 of this 1985 act and RCW 43.210.040;

(5) Section 5, chapter 20, Laws of 1983 1st ex. sess., section 5 of this 1985 act and RCW 43.210.050;

(6) Section 6, chapter 20, Laws of 1983 1st ex. sess. and RCW 43.210.060;

(7) Section 7, chapter 20, Laws of 1983 1st ex. sess. and section 6 of this 1985 act (uncodified);

(8) Section 7 of this 1985 act (uncodified);

(9) Section 8 of this 1985 act (uncodified); and

(10) Section 9 of this 1985 act (uncodified).

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 232

[Substitute House Bill No. 1079]

SALES AND USE TAX DEFERRALS FOR SPECIFIED INVESTMENTS IN DISTRESSED AREAS

AN ACT Relating to sales and use tax deferral; adding a new chapter to Title 82 RCW; creating a new section; providing an expiration date; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that there are several areas in the state that are characterized by very high levels of unemployment and poverty. The legislative [legislature] further finds that economic stagnation is the primary cause of this high unemployment rate and poverty; that new state policies are necessary in order to promote economic stimulation and new employment opportunities in these distressed areas; and that policies providing incentives for economic growth in these distressed areas are essential. For these reasons, the legislature hereby establishes a tax deferral program to be effective solely in distressed areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified number of jobs. The legislature declares that this limited program serves the vital public purpose of creating employment opportunities and reducing poverty in the distressed areas of the state.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(4)(a) "Eligible investment project" means that portion of an investment project which:

(i) Is directly utilized to create at least one new full-time qualified employment position for each two hundred thousand dollars of investment on which a deferral is requested;

(ii) Either initiates a new operation, or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to improvement; and

(iii) Does not exceed twenty million dollars in value.

(b) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5) or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings and qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means new structures used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

NEW SECTION. Sec. 3. Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department shall rule on the application within sixty days.

NEW SECTION. Sec. 4. (1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project located in an eligible area.

(2) The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium. The department shall not allow any deferrals which would cause the tabulation for a biennium to exceed twenty million dollars. If all or part of an application for deferral is disallowed under this subsection, the disallowed portion shall be carried over for approval the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed the application.

NEW SECTION. Sec. 5. (1) The recipient shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project has been operationally completed. The first payment will be due on December 31st of the third calendar

year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest shall not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

NEW SECTION. Sec. 6. (1) Each recipient shall submit a report to the department on December 31st of each year during the repayment period until the tax deferral is repaid. The report shall contain information, as required by the department, from which the department may determine whether the recipient is meeting the requirements of this chapter. If the recipient fails to submit a report or submits an inadequate report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable.

(2) If, on the basis of a report under this section or other information, the department finds that an investment project is not eligible for tax deferral under this chapter for reasons other than failure to create the required number of qualified employment positions, the amount of deferred taxes outstanding for the project shall be immediately due.

(3) If, on the basis of a report under this section or other information, the department finds that an investment project has been operationally complete for three years and has failed to create the required number of qualified employment positions, the department shall assess interest, but not penalties, on the deferred taxes for the project. The interest shall be assessed at the rate provided for delinquent excise taxes, shall be assessed retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid.

NEW SECTION. Sec. 7. The department of employment security shall make, and certify to the department of revenue, all determinations of employment and wages required under this chapter.

NEW SECTION. Sec. 8. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 9. Sections 2 through 8 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 10. Sections 3 and 4 of this act shall expire July 1, 1991.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, provided that no taxes may be deferred prior to July 1, 1985.

Passed the House April 26, 1985.

Passed the Senate April 26, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 233

[Engrossed Senate Bill No. 3762]

STATE CONVENTION AND TRADE CENTER—BOND OFFERINGS— ENTERPRISE FUND—TRAVEL EXPENSES AND SUBSISTENCE

AN ACT Relating to the state convention and trade center; amending RCW 67.40.030, and 43.84.090; adding a new section to chapter 43.03 RCW; adding new sections to chapter 67.40 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 34, Laws of 1982 as amended by section 3, chapter 1, Laws of 1983 2nd ex. sess. and RCW 67.40.030 are each amended to read as follows:

For the purpose of providing funds for the state convention and trade center, the state finance committee is authorized to issue, upon request of the corporation formed under RCW 67.40.020 and in ~~((a-single))~~ one or more offerings, general obligation bonds of the state of Washington in the sum of ninety-nine million dollars, or so much thereof as may be required, to finance this project and all costs incidental thereto, to capitalize all or a portion of interest during construction, to provide for expansion, renovation, and contingency costs of the center, and to reimburse the general fund for expenditures in support of the project. The state finance committee may make such bond covenants as it deems necessary to carry out the purposes of this section and this chapter. No bonds authorized in this section may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. A new section is added to chapter 67.40 RCW to read as follows:

To more accurately determine the total costs and revenues of the corporation formed under RCW 67.40.020 and to ensure accountability, promote flexibility, and increase profitability, the funds of the corporation shall

be administered as an enterprise fund by the corporation, the state treasurer, and other state agencies. Administration and accounting of an enterprise fund, as applied by and to the corporation formed under RCW 67.40.020, includes the following additional powers and practices:

(1) Subject to approval by the office of financial management, the corporation may expend moneys for operational purposes in excess of the amount appropriated for such purposes to the extent the corporation receives or will receive additional operating revenues.

(2) Seventy-five percent of the income from the investment of the corporation's funds deposited in the general fund pursuant to RCW 43.84.090 including interest earned thereon, before and after the effective date of this act, shall be credited against any future borrowings by the corporation from the general fund for debt service or otherwise at the time such funds are needed after July 1, 1987.

NEW SECTION. Sec. 3. A new section is added to chapter 67.40 RCW to read as follows:

Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses under RCW 43.03-.050 and 43.03.060.

NEW SECTION. Sec. 4. A new section is added to chapter 43.03 RCW to read as follows:

Notwithstanding any provision of this chapter, employees of the corporation formed under RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures.

Sec. 5. Section 43.84.090, chapter 8, Laws of 1965 as last amended by section 2, chapter 242, Laws of 1981 and RCW 43.84.090 are each amended to read as follows:

Except as otherwise provided by section 2 of this 1985 act, twenty percent of all income received from such investments shall be deposited in the state general fund.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 234

[Substitute Senate Bill No. 3035]

DRIVER AND MOTORCYCLE PERMITS—MOTORCYCLE ENDORSEMENTS

AN ACT Relating to motor vehicles; and amending RCW 46.20.055, 46.20.100, and 46.20.510.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 260, Laws of 1981 and RCW 46.20.055 are each amended to read as follows:

(1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person who is at least sixteen years of age may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant ~~((an))~~ a driver's or motorcyclist's instruction permit ~~((which shall))~~.

(a) A driver's instruction permit entitles the ~~((applicant))~~ permittee while having ~~((such))~~ the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver ~~((, except if the permittee is operating a motorcycle))~~. Except as provided in subsection (c) of this subsection, only one additional ~~((instruction))~~ permit, valid for one year, may be issued.

(b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in RCW 46.20.510(3). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.

(c) The department after investigation may ~~((in its discretion))~~ issue a third driver's or motorcyclist's instruction permit ~~((where))~~ when it finds that the permittee is diligently seeking to improve driving proficiency.

(2) The department upon receiving proper application may in its discretion issue ~~((an))~~ a driver's instruction permit effective for a school semester or other restricted period to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.

(3) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period not to exceed sixty days while the department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in the ~~((applicant's))~~ permittee's immediate possession while driving a motor vehicle, and it shall be invalid when the ~~((applicant's))~~ permittee's license has been issued or for good cause has been refused.

Sec. 2. Section 46.20.100, chapter 12, Laws of 1961 as last amended by section 146, chapter 158, Laws of 1979 and RCW 46.20.100 are each amended to read as follows:

The department of licensing shall not consider ~~((the))~~ an application of any minor under the age of eighteen years for a driver's license or the issuance of a motorcycle endorsement for a particular category unless:

(1) The application is also signed by the father or mother of the applicant, otherwise by the parent or guardian having the custody of such minor, or in the event a minor under the age of eighteen has no father, mother, or guardian, then a driver's license shall not be issued to the minor unless his or her application is also signed by ~~((his))~~ the minor's employer; and

(2) The ~~((minor))~~ applicant has satisfactorily completed a traffic safety education course as defined in RCW 46.81.010, conducted by a recognized secondary school, that meets the standards established by the office of the state superintendent of public instruction or the ~~((minor))~~ applicant has satisfactorily completed a traffic safety education course, conducted by a commercial driving instruction enterprise, that meets the standards established by the office of the superintendent of public instruction and is officially approved by that office on an annual basis: PROVIDED, HOWEVER, That the director may upon a showing that an ~~((individual))~~ applicant was unable to take or complete a driver education course waive ~~((said))~~ that requirement if the ~~((minor))~~ applicant shows to the satisfaction of the department that a need exists for ~~((him))~~ the applicant to operate a motor vehicle and he or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property, under rules to be promulgated by the department in concert with the supervisor of the traffic safety education section, office of the superintendent of public instruction. For a person under the age of eighteen years to obtain a motorcycle endorsement, he or she must successfully complete a motorcycle safety education course that meets the standards established by the department of licensing.

The department may waive any education requirement under this subsection for an applicant previously licensed to drive a motor vehicle or motorcycle outside this state if the applicant provides proof satisfactory to the department that he or she has had education equivalent to that required under this subsection.

Sec. 3. Section 3, chapter 77, Laws of 1982 and RCW 46.20.510 are each amended to read as follows:

(1) There shall be three categories for the special motorcycle endorsement of a driver's license. Category one shall be for motorcycles or motor-driven cycles having an engine displacement of one hundred fifty cubic centimeters or less. Category two shall be for motorcycles having an engine displacement of five hundred cubic centimeters or less. Category three shall include categories one and two, and shall be for motorcycles having an engine displacement of five hundred one cubic centimeters or more.

(2) A motorcycle endorsement issued prior to June 10, 1982, is deemed to be for category three. Thereafter, a person first seeking a motorcycle endorsement or a person seeking an endorsement to operate a motorcycle with an engine displacement of a higher category than the one covered by his or her existing endorsement, shall obtain an endorsement for the appropriate category pursuant to RCW 46.20.505 through 46.20.515.

(3) The department may issue ((an)) a motorcyclist's instruction permit to an individual who wishes to learn to ride a motorcycle or obtain an endorsement of a larger endorsement category. This permit and a valid driver's license with current endorsement, if any, shall be carried when operating a motorcycle. An individual with ((an)) a motorcyclist's instruction permit may not carry passengers, may not operate a motorcycle during the hours of darkness or on a fully controlled, limited access facility, and shall be under the direct visual supervision of a person with a motorcycle endorsement of the appropriate category.

Passed the Senate April 15, 1985.

Passed the House April 10, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 235

[Senate Bill No. 3906]

MORAL NUISANCES—PORNOGRAPHY

AN ACT Relating to pornography and moral nuisances; amending RCW 7.48A.040, 7.48A.050, and 9.68.140; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 184, Laws of 1982 and RCW 7.48A.040 are each amended to read as follows:

(1) No person shall with knowledge maintain a moral nuisance.

(2) Upon a determination that a defendant has with knowledge maintained a moral nuisance, the court shall impose a civil ((penalty)) fine and judgment of an amount as the court ((may)) shall determine to be appropriate. In imposing the civil ((penalty)) fine, the court shall consider the

wilfulness of the defendant's conduct and the profits made by the defendant attributable to the ~~((moral-nuisance))~~ lewd matter, lewdness, or prostitution, whichever is applicable. In no event shall the civil fine exceed the greater of twenty-five thousand dollars or these profits.

Sec. 2. Section 5, chapter 184, Laws of 1982 and RCW 7.48A.050 are each amended to read as follows:

All civil ~~((penalties))~~ fines assessed under RCW 7.48A.040 shall be paid into the general treasury of the governmental unit commencing the civil action.

Sec. 3. Section 8, chapter 184, Laws of 1982 and RCW 9.68.140 are each amended to read as follows:

A person who, for profit-making purposes and with knowledge, sells, exhibits, displays, or produces any lewd matter as defined in RCW 7.48A-.010 is guilty of promoting pornography. Promoting pornography is a class C felony and shall bear the punishment and fines prescribed for that class of felony~~((; except that upon conviction of promoting pornography the court shall impose a fine of not less than five thousand dollars per count nor more than fifty thousand dollars per count))~~. In imposing the criminal penalty, the court shall consider the wilfulness of the defendant's conduct and the profits made by the defendant attributable to the felony. All fines assessed under this chapter shall be paid into the general treasury of the state.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 236

[Enrolled Substitute House Bill No. 62]

SMOKING—WASHINGTON CLEAN INDOOR AIR ACT

AN ACT Relating to smoking; adding a new chapter to Title 70 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

PART I
WASHINGTON CLEAN INDOOR AIR ACT

NEW SECTION. Sec. 1. The legislature recognizes the increasing evidence that tobacco smoke in closely confined places may create a danger to the health of some citizens of this state. In order to protect the health and welfare of those citizens, it is necessary to prohibit smoking in public places except in areas designated as smoking areas.

NEW SECTION. Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

(1) "Smoke" or "smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

(2) "Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Washington, or other public entity, and regardless of whether a fee is charged for admission.

Public places include, but are not limited to: Elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, and reception areas. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

(3) "Restaurant" means any building, structure, or area used, maintained, or advertised as, or held out to the public to be, an enclosure where meals are made available to be consumed on the premises, for consideration of payment.

NEW SECTION. Sec. 3. No person may smoke in a public place except in designated smoking areas.

NEW SECTION. Sec. 4. (1) A smoking area may be designated in a public place by the owner or, in the case of a leased or rented space, by the lessee or other person in charge except in:

(a) Elevators; buses, except for private hire; streetcars; taxis, except those clearly and visibly designated by the owner to permit smoking; public areas of retail stores and lobbies of financial institutions; office reception areas and waiting rooms of any building owned or leased by the state of Washington or by any city, county, or other municipality in the state of Washington; museums; public meetings or hearings; classrooms and lecture halls of schools, colleges, and universities; and the seating areas and aisle

ways which are contiguous to seating areas of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas; and

(b) Hallways of health care facilities, with the exception of nursing homes, and lobbies of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas, if the area is not physically separated. Owners or other persons in charge are not required to incur any expense to make structural or other physical modifications in providing these areas.

Except as provided in other provisions of this chapter, no public place, other than a bar, tavern, bowling alley, tobacco shop, or restaurant, may be designated as a smoking area in its entirety. If a bar, tobacco shop, or restaurant is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(2) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.

(3) Managers of restaurants who choose to provide smoking areas shall designate an adequate amount of seating to meet the demands of restaurant patrons who wish to smoke. Owners of restaurants are not required to incur any expense to make structural or other physical modifications in providing these areas. Restaurant patrons shall be informed that separate smoking and nonsmoking sections are available.

(4) Except as otherwise provided in this chapter, a facility or area may be designated in its entirety as a nonsmoking area by the owner or other person in charge.

NEW SECTION. Sec. 5. Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall make every reasonable effort to prohibit smoking in public places by posting signs prohibiting or permitting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place. The boundary between a nonsmoking area and a smoking permitted area shall be clearly designated so that persons may differentiate between the two areas.

NEW SECTION. Sec. 6. This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the state fire marshal or by other law, ordinance, or regulation.

NEW SECTION. Sec. 7. (1) Any person intentionally violating this chapter by smoking in a public place not designated as a smoking area or any person removing, defacing, or destroying a sign required by this chapter is subject to a civil fine of up to one hundred dollars. Local law enforcement

agencies shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. The provisions contained in chapter 46.63 RCW for the disposition of traffic infractions apply to the disposition of infractions for violation of this subsection except as follows:

(a) The provisions in chapter 46.63 RCW relating to the provision of records to the department of licensing in accordance with RCW 46.20.270 are not applicable to this chapter; and

(b) The provisions in chapter 46.63 RCW relating to the imposition of sanctions against a person's driver's license or vehicle license are not applicable to this chapter.

The form for the notice of infraction for a violation of this subsection shall be prescribed by rule of the supreme court.

(2) When violations of section 4 or 5 of this act occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

(3) Local fire departments or fire districts shall enforce section 4 or 5 of this act regarding the duties of owners or persons in control of public places, and local health departments shall enforce section 4 or 5 of this act regarding the duties of owners of restaurants by either of the following actions:

(a) Serving notice requiring the correction of any violation; or

(b) Calling upon the city or town attorney or county prosecutor to maintain an action for an injunction to enforce sections 4 and 5 of this act, to correct a violation, and to assess and recover a civil penalty for the violation.

NEW SECTION. Sec. 8. Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city or county bringing the action.

NEW SECTION. Sec. 9. Local fire departments or fire districts and local health departments may adopt regulations as required to implement this chapter.

NEW SECTION. Sec. 10. This chapter shall be known as the Washington clean indoor air act.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 237

[Engrossed Senate Bill No. 3091]

REAL ESTATE CONTRACTS—FORFEITURES

AN ACT Relating to real estate contracts; amending RCW 79.01.228; adding a new chapter to Title 61 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Contract" or "real estate contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for payment of the purchase price. "Contract" or "real estate contract" does not include earnest money agreements and options to purchase.

(2) "Cure the default" or "cure" means to perform the obligations under the contract which are described in the notice of intent to forfeit and which are in default, to pay the costs and attorneys' fees prescribed in the contract, and, subject to section 9(1) of this act, to make all payments of money required of the purchaser by the contract which first become due after the notice of intent to forfeit is given and are due when cure is tendered.

(3) "Declaration of forfeiture" means the notice described in section 7(2) of this act.

(4) "Forfeit" means to cancel the purchaser's rights under a real estate contract and to terminate all right, title, and interest in the property of the purchaser and, to the extent provided in this chapter, of persons claiming by or through the purchaser because of a breach of one or more of the purchaser's obligations under the contract.

(5) "Notice of intent to forfeit" means the notice described in section 7(1) of this act.

(6) "Property" means that portion of the real property which is the subject of a real estate contract, legal title to which has not been conveyed to the purchaser.

(7) "Purchaser" means the person denominated as the purchaser of the property or an interest therein in a real estate contract or, if applicable, the purchaser's personal representative or successors or assigns in interest, whether by voluntary or involuntary transfer or transfer by operation of law. If the purchaser's interest in the property is subject to a receivership, a guardianship, or a proceeding under the federal bankruptcy laws, "purchaser" means the receiver, the guardian, the trustee in bankruptcy, or the debtor in possession, as applicable. However, "purchaser" does not include an assignee or any other person whose only interest or claim is in the nature of a lien or other security interest.

(8) "Required notices" means the notice of intent to forfeit and the declaration of forfeiture.

(9) "Seller" means the person denominated as the seller of the property or an interest therein in a real estate contract or, if applicable, the seller's personal representative or successors or assigns in interest, whether by voluntary or involuntary transfer or transfer by operation of law. If the seller's interest in the property is subject to a receivership, a guardianship, or a proceeding under the federal bankruptcy laws, "seller" means the receiver, the guardian, the trustee in bankruptcy, or the debtor in possession, as applicable. However, "seller" does not include an assignee or any other person whose only interest or claim is in the nature of a lien or other security interest and does not include an assignee who has not been conveyed legal title to any portion of the property.

(10) "Time for cure" means the time provided in section 7(1)(e) of this act, or as provided by court order under section 11 of this act, or any longer period agreed to by the seller.

NEW SECTION. Sec. 2. A purchaser's rights under a real estate contract shall not be forfeited except as provided in this chapter. Forfeiture shall be accomplished by giving and recording the required notices as specified in this chapter. This chapter shall not be construed as prohibiting or limiting any remedy which is not governed or restricted by this chapter and which is otherwise available to the seller or the purchaser.

NEW SECTION. Sec. 3. It shall be a condition to forfeiture of a real estate contract that:

(1) The contract being forfeited, or a memorandum thereof, is recorded in each county in which any of the property is located;

(2) A breach has occurred in one or more of the purchaser's obligations under the contract and the contract provides that as a result of such breach the seller is entitled to forfeit the contract; and

(3) Except for petitions for the appointment of a receiver, no action is pending on a claim made by the seller against the purchaser on any obligation secured by the contract.

NEW SECTION. Sec. 4. (1) The required notices shall be given to each purchaser last known to the seller or the seller's agent or attorney giving the notice and to each person who, at the time the notice of intent to forfeit is recorded, is the last holder of record of the purchaser's interest. Failure to comply with this subsection shall render any purported forfeiture based upon the required notices void.

(2) The required notices shall also be given to each of the following persons whose interest the seller desires to forfeit if the default is not cured:

(a) The holders of record at the time the notice of intent to forfeit is recorded of security interests in or liens against the purchaser's interest in

the contract or the purchaser's interest in the property or any portion of either;

(b) The holders of record at the time the notice of intent to forfeit is recorded of the seller's or the purchaser's interest in any real estate contract affecting the property which is subordinate to the contract being forfeited; and

(c) All other persons occupying the property at the time the notice of intent to forfeit is recorded and whose identities may be ascertained by reasonable inquiry.

Any forfeiture based upon the required notices shall be void as to each person described in this subsection to whom the notices are not given.

(3) The required notices shall also be given to all persons who at the time the notice of intent to forfeit is recorded have recorded in each county in which any of the property is located a request to receive the required notices, which request (a) identifies the contract being forfeited by reference to its date, the original parties thereto, the property description, and the recording number of the contract or memorandum thereof; (b) contains the name and address for notice of the person making the request; and (c) is executed and acknowledged by the requesting person.

(4) Except as otherwise provided in the contract or other agreement with the seller and except as otherwise provided in this section, the seller shall not be required to give any required notice to any person whose interest in the purchaser's rights under the contract or the property or any portion of either is not of record or if such interest is first acquired after the time the notice of intent to forfeit is recorded. Subject to subsection (5) of this section, all such persons hold their interest subject to the potential forfeiture described in the recorded notice of intent to forfeit and shall be bound by any forfeiture made pursuant thereto as permitted in this chapter as if the required notices were given to them.

(5) Before the commencement of the time for cure, the notice of intent to forfeit shall be recorded in each county in which any of the property is located. If, not later than one year after the time for cure stated in a recorded notice of intent to forfeit or any recorded extension thereof, no declaration of forfeiture based upon the recorded notice of intent to forfeit has been recorded, no lis pendens has been filed incident to an action under this chapter, and no extension of the time for cure executed by the seller and the purchaser has been recorded, the notice of intent to forfeit shall not be effective for any purpose under this chapter nor shall it impart any constructive or other notice to third persons acquiring an interest in the purchaser's interest in the contract or the property or any portion of either.

(6) The declaration of forfeiture shall be recorded in each county in which any of the property is located after the time for cure has expired without the default having been cured.

NEW SECTION. Sec. 5. (1) The required notices shall be given in writing. The notice of intent to forfeit shall be signed by the seller or by the seller's agent or attorney. The declaration of forfeiture shall be signed and sworn to by the seller.

(2) The required notices shall be given:

(a) In any manner provided in the contract or other agreement with the seller; and

(b) By either personal service in the manner required for civil actions in any county in which any of the property is located or by mailing a copy to the person for whom it is intended, postage prepaid, by certified or registered mail with return receipt requested and by regular first class mail, addressed to the person at the person's address last known to the seller or the seller's agent or attorney giving the notice. For the purposes of this subsection, the seller or the seller's agent or attorney giving the notice may rely upon the address stated in any document which entitles a person to receive the required notices unless the seller or the seller's agent or attorney giving the notice knows such address to be incorrect.

If the address of a person for whom the required notices are intended is not known to or reasonably discoverable by the seller or the seller's agent or attorney giving the notice, the required notices shall be given to such person by posting a copy which is directed to the attention of the person in a conspicuous place on the property.

If the identity of a person for whom the required notices are intended is not known to or reasonably discoverable by the seller or the seller's agent or attorney giving the notice, the required notices shall be given to such person by posting in a conspicuous place on the property a copy which is directed to the attention of all persons who fall within a general description of those for whom the notice is intended (such as "the unknown heirs of" a named person or "all persons unknown claiming an interest in the property described herein") and by publishing a copy thereof. The publication shall be made in a newspaper approved pursuant to RCW 65.16.040 and published in each county in which any of the property is located or, if no approved newspaper is published in the county, in an adjoining county, and if no approved newspaper is published in the county or adjoining county, then in an approved newspaper published in the capital of the state. The notice of intent to forfeit shall be published once a week for two consecutive weeks, the first publication of which shall be not less than ten days after the notice of intent is recorded. The declaration of forfeiture shall be published once.

(3) Notices which are served, mailed, or posted as provided in subsection (2)(b) of this section are given for purposes of this chapter when served, mailed, or posted. Notices which must be posted and published as provided in subsection (2)(b) of this section are given for the purposes of this chapter when posted and first published.

NEW SECTION. Sec. 6. The notice of intent to forfeit shall be given not later than ten days after it is recorded. The declaration of forfeiture shall be given not later than three days after it is recorded.

NEW SECTION. Sec. 7. (1) The notice of intent to forfeit shall contain at least the following:

(a) The name, address, and telephone number of the seller and, if any, the seller's agent or attorney giving the notice;

(b) A description of the contract, including the names of the original parties to the contract, the date of the contract, and the recording number of the contract or memorandum thereof;

(c) A legal description of the property;

(d) A description of each default under the contract on which the notice is based;

(e) A statement that the contract will be forfeited by a date stated in the notice which is not less than ninety days after the notice of intent to forfeit is recorded or any longer period specified in the contract or other agreement with the seller;

(f) A statement of the effect of forfeiture, including, to the extent applicable and provided in the contract: (i) All right, title, and interest in the property of the purchaser and, to the extent elected by the seller, of all persons claiming through the purchaser shall be terminated; (ii) the purchaser's rights under the contract shall be canceled; (iii) all sums previously paid under the contract shall belong to and be retained by the seller or other person to whom paid and entitled thereto; (iv) all improvements made to and unharvested crops on the property shall belong to the seller; and (v) the purchaser shall be required to surrender possession of the property, improvements, and unharvested crops to the seller ten days after the forfeiture;

(g) An itemized statement or, to the extent not known at the time the notice of intent to forfeit is recorded, a reasonable estimate of all payments of money in default and, for defaults not involving the failure to pay money, a statement of the action required to cure the default;

(h) An itemized statement of all other payments, charges, fees, and costs, if any, that are or may be required to cure the defaults if the defaults are cured before the declaration of forfeiture is recorded;

(i) A statement that the purchaser or any person claiming through the purchaser has the right to contest the forfeiture or to seek an extension of time to cure the default, or both, by commencing a court action prior to the effective date of forfeiture; and

(j) Any additional information required by the contract or other agreement with the seller and any additional information the seller elects to include which is consistent with this section and with the contract or other agreement with the seller.

(2) If the default is not cured as provided in section 9 of this act, the seller may forfeit the contract by giving and recording a declaration of forfeiture which contains at least the following:

(a) The name, address, and telephone number of the seller;

(b) A description of the contract, including the names of the original parties to the contract, the date of the contract, and the recording number of the contract or memorandum thereof;

(c) A legal description of the property;

(d) To the extent applicable and provided in the contract, a statement that all the purchaser's rights under the contract are canceled and all right, title, and interest in the property of the purchaser and of all persons claiming an interest in the contract, the property, or any portion of either, are terminated except to the extent otherwise stated in the declaration of forfeiture as to persons or claims named, identified, or described;

(e) To the extent applicable, a statement that all persons whose rights in the property have been terminated and who are in or come into possession of any portion of the property (including improvements and unharvested crops) are required to surrender such possession to the seller not later than a specified date which shall not be less than ten days after the declaration of forfeiture is recorded or such longer period provided in the contract;

(f) A statement that the forfeiture was conducted in compliance with all requirements of this chapter and applicable provisions of the contract; and

(g) A statement that the purchaser and any person claiming any interest in the purchaser's rights under the contract or in the property who are given the notice of intent to forfeit and the declaration of forfeiture have the right, for a period of sixty days following the date the declaration of forfeiture is recorded, to commence a court action to set the forfeiture aside if the seller did not have the right to forfeit the contract or failed to comply with this chapter.

NEW SECTION. Sec. 8. (1) If the seller fails to give the notice of intent to forfeit to all persons whose interests the seller desires to forfeit in the manner required by this chapter, the seller may give a new set of notices as required by this chapter. However, the new notices shall contain a statement that they supersede and replace the earlier notices and shall provide a new time for cure.

(2) If the seller fails to give any required notice to all persons whose interests the seller desires to forfeit in the manner required by this chapter, and the failure is not discovered until after the seller records the declaration of forfeiture, the seller may obtain a court order setting aside the forfeiture previously made, in which case the seller may proceed as if no forfeiture had been commenced. However, no such order may be obtained without

joinder and service upon the persons whose interests the seller desires to forfeit.

NEW SECTION. Sec. 9. (1) Even if the contract contains a provision allowing the seller, because of a default in the purchaser's obligations under the contract, to accelerate the due date of some or all payments to be made or other obligations to be performed by the purchaser under the contract, the seller may not require payment of the accelerated payments or performance of the accelerated obligations as a condition to curing the default in order to avoid forfeiture except to the extent the payments or performance would be due without the acceleration. This subsection shall not apply to an acceleration because of a transfer or conveyance of any or all of the purchaser's interest in any portion or all of the property if the contract being forfeited contains a provision accelerating the unpaid balance because of such transfer or conveyance and such provision is enforceable under applicable law.

(2) Any person given rights to receive the required notices under section 4(1) and (2) of this act and any guarantor of or any surety for the purchaser's performance may cure the default. These persons may cure the default at any time before expiration of the time for cure and may act alone or in any combination.

(3) The seller may accept tender of cure after the expiration of the time for cure and prior to the recordation of the declaration of forfeiture. The seller may accept a partial cure. If the tender of such partial cure is not accompanied by a written statement of the person making the tender that such payment or other action does not fully cure the default, the seller shall notify such person in writing of the insufficiency and the amount or character thereof, which notice shall include an offer to refund any partial tender of money paid to the seller upon request. The seller shall refund such amount promptly following its receipt of such request, and the seller shall be liable to the person to whom such amount is due for that person's reasonable attorneys' fees and court costs incurred in an action brought to recover such amount in which such refund or any portion thereof is found to have been improperly withheld. If the seller's written notice of insufficiency is not given to the person making the tender at least ten days before the expiration of the time for cure, then regardless of whether the tender is accepted the time for cure shall be extended for ten days from the date the seller's written notice of insufficiency is given. The seller shall not be required to extend the time for cure more than once even though more than one insufficient tender is made.

(4) Except as provided in this subsection, a timely tender of cure shall reinstate the contract. If a default that entitles the seller to forfeit the contract is not described in a notice of intent to forfeit previously given and the seller gives a notice of intent to forfeit concerning that default, timely cure

of a default described in a previous notice of intent to forfeit shall not limit the effect of the subsequent notice.

(5) If the default is cured, the seller shall sign, acknowledge, record, and deliver or mail to the purchaser and, if different, the person who made the tender a written statement that the contract is no longer subject to forfeiture under the notice of intent to forfeit previously given, referring to the notice of intent to forfeit by its recording number. A seller who fails within thirty days of written demand to give and record the statement required by this subsection, if such demand specifies the penalties in this subsection, is liable to the person who cured the default for the greater of five hundred dollars or actual damages, if any, and for reasonable attorneys' fees and costs of the action to recover such amount or damages.

NEW SECTION. Sec. 10. (1) The recorded and sworn declaration of forfeiture shall be prima facie evidence of the extent of the forfeiture and compliance with this chapter and, except as otherwise provided in section 4 (1) and (2) of this act, conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

(2) Except as otherwise provided in this chapter and except to the extent otherwise provided in the contract or other agreement with the seller, forfeiture of a contract under this chapter shall have the following effects:

(a) The purchaser, and all persons claiming through the purchaser who were given the required notices pursuant to this chapter, shall have no further rights in the contract or the property and no person shall have any right, by statute or otherwise, to redeem the property;

(b) All sums previously paid under the contract by or on behalf of the purchaser shall belong to and be retained by the seller or other person to whom paid; and

(c) All of the rights of the purchaser to all improvements made to the property and all unharvested crops thereon at the time the declaration of forfeiture is recorded shall be forfeited to the seller and the seller shall be entitled to possession of the property ten days after the declaration of forfeiture is recorded. The seller may proceed under chapter 59.12 RCW to obtain such possession. Any person in possession who fails to surrender possession when required shall be liable to the seller for actual damages caused by such failure and for reasonable attorneys' fees and costs of the action.

(3) After the declaration of forfeiture is recorded, the seller shall have no claim against and the purchaser shall not be liable to the seller for any portion of the purchase price unpaid or for any other breach of the purchaser's obligations under the contract.

NEW SECTION. Sec. 11. (1) The forfeiture may be restrained or enjoined or the time for cure may be extended by court order only as provided in this section. A certified copy of any restraining order or injunction may be recorded in each county in which any part of the property is located.

(2) Any person entitled to cure the default may bring or join in an action under this section. No other person may bring such an action without leave of court first given for good cause shown. Any such action shall be commenced before expiration of the time for cure by filing the summons and complaint and serving the seller or the seller's agent or attorney, if any, giving either of the required notices.

(3) The forfeiture may be restrained or enjoined when the person bringing the action proves that there is no default as claimed in the notice of intent to forfeit or that the purchaser has a claim against the seller which, if successful, would release, discharge, or excuse the default claimed in the notice of intent to forfeit, including by offset, or that there exists any material noncompliance with this chapter. The time for cure may be extended when the default alleged is other than the failure to pay money, the nature of the default is such that it cannot practically be cured within the time stated in the notice of intent to forfeit, action has been taken and is diligently being pursued which would cure the default, and any person entitled to cure is ready, willing, and able to timely perform all of the purchaser's other contract obligations.

NEW SECTION. Sec. 12. (1) A public sale of the property in lieu of the forfeiture may be ordered by the court only as provided in this section. Any person entitled to cure the default may bring an action seeking an order. No other person may bring such an action without leave of court first given for good cause shown.

(2) An action under this section shall be commenced before expiration of the time for cure by filing the summons and complaint and serving the seller or the seller's agent or attorney, if any, giving either of the required notices.

(3) If the court finds the then fair market value of the property substantially exceeds the unpaid and unperformed obligations secured by the contract and any other liens against the property that would not be eliminated by the forfeiture, the court may require the property to be sold for cash to the highest bidder at a public sale by the sheriff at a courthouse of the county in which the property or any portion thereof is located. The order requiring a public sale of the property shall specify the amount which the seller is entitled to be paid from the sale proceeds and shall require any person requesting the sale to deposit with the clerk of the court, or such other person as the court may direct, the amount the court finds will be necessary to pay all of the costs and expenses of advertising and conducting the sale, including the notices to be given under subsection (5) of this section. The court shall require such deposit to be made within seven days, and if not so made the court shall vacate its order of sale and permit the seller to forfeit the contract. The sale shall serve to eliminate the interests of the

persons given the notice of intent to forfeit to the same extent that such interests would have been eliminated had the seller's forfeiture been effected pursuant to such notice.

(4) The sheriff shall endorse upon the order the time and date when the sheriff receives it and shall forthwith proceed to give the notice of sale specified in this subsection and sell the property, or so much thereof as may be necessary to discharge the amount the seller is entitled to be paid as specified in the court's order of sale. The notice of sale shall be printed or typed and contain the following information:

(a) A statement that the court has directed the sheriff to sell the property described in the notice of sale and the amount the seller is entitled to be paid from the sale proceeds as specified in the court's order;

(b) The caption, cause number, and court in which the order was entered;

(c) A legal description of the property to be sold, including the street address if any;

(d) The date and recording number of the contract;

(e) The scheduled date, time, and place of the sale;

(f) The right of the purchaser to avoid any public sale ordered by the court by paying to the seller, in cash, the amount which the seller would be entitled to be paid from the proceeds of the sale, as specified in the court's order; and

(g) A statement that no person shall have any right to redeem the property sold at the sale.

The notice of sale shall be given by posting a copy thereof for a period of not less than four weeks prior to the date of sale in three public places in the county in which the property or any portion thereof is located, one of which shall be at the courthouse door where the property is to be sold, and one of which shall be placed in a conspicuous place on the property. If the property is improved, the notice posted thereon shall be at the front door of the principal building constituting such improvement. Additionally, the notice of sale shall be published once a week for two consecutive weeks in the newspaper or newspapers prescribed for published notices in section 5(2)(b) of this act. The sale shall be scheduled to be held not more than seven days following the expiration of (i) the periods during which the notice of sale is required to be posted and published or (ii) the time for cure, whichever is later; however, the seller may, but shall not be required to, permit the sale to be scheduled for a later date. Upon the completion of the sale, the sheriff shall deliver a sheriff's deed to the property sold to the successful bidder.

(5) Within seven days following the entry of the court's order directing that the property be sold at a public sale, the seller shall, by the means described in section 5(2) of this act, give the notice of sale to all persons who were given the notice of intent to forfeit.

(6) Any person except the purchaser may bid at the sale. If the seller is the successful bidder, the seller may offset against the price bid the amount the seller is entitled to be paid as specified in the court's order. Proceeds of such sale shall be first applied to the costs and expenses of sale incurred by the sheriff, and next to the amount the seller is entitled to be paid as specified in the court's order. Any proceeds in excess of the amount necessary to pay such costs, expenses and amount, less the clerk's filing fee, shall be deposited with the clerk of the superior court of the county in which the sale took place, unless such surplus is less than the clerk's filing fee, in which event such excess shall be paid to the purchaser. The clerk shall index such funds under the name of the purchaser. Interest in or liens or claims of liens against the property eliminated by the sale shall attach to such surplus in the order of priority that they had attached to the property. The clerk shall not disburse the surplus except upon order of the superior court of such county, which order shall not be entered less than ten days following the deposit of the funds with the clerk.

(7) Following the expiration of the time for cure and prior to the sale being held, the purchaser shall have the right to satisfy its obligations under the contract and avoid any public sale ordered by the court by paying to the seller, in cash, the amount which the seller would be entitled to be paid from the proceeds of the sale as specified in the court's order.

(8) Following the public sale provided in this section neither the purchaser nor any other person shall have any right, by statute or otherwise, to redeem the property.

(9) A public sale effected under this section shall satisfy the obligations secured by the contract, regardless of the sale price or fair value, and no deficiency decree or other judgment may thereafter be obtained on such obligations.

NEW SECTION. Sec. 13. (1) If an order restraining or enjoining the forfeiture or an order of sale under section 12 of this act expires or is dissolved or vacated at least ten days before expiration of the time for cure, the seller may proceed with the forfeiture under this chapter if the default is not cured at the end of that time. If any such order expires or is dissolved or vacated at any time later than stated in the first sentence of this subsection, the seller may proceed with the forfeiture under this chapter if the default is not cured except the time for cure shall be extended for ten days after the expiration of, or entry of the order dissolving or vacating, the order.

(2) In actions under sections 11 and 12 of this act, the court may award reasonable attorneys' fees and costs of the action to the prevailing party.

(3) In actions under sections 11 and 12 of this act, on the seller's motion the court may (a) require the person commencing the action to provide a bond or other security against all or a portion of the seller's damages and (b) impose other conditions, the failure of which may be cause for entry of

an order dismissing the action and dissolving or vacating any restraining order, injunction, or other order previously entered.

NEW SECTION. Sec. 14. (1) An action to set aside the forfeiture after the declaration of forfeiture has been recorded may be commenced only as provided in this section and regardless of whether an action was previously commenced under section 11 of this act.

(2) An action to set aside the forfeiture permitted by this section may be commenced only by a person entitled to be given the required notices under section 4(1) and (2) of this act. For all persons given the required notices in accordance with this chapter, such an action shall be commenced by filing the summons and complaint and serving the seller or the seller's agent or attorney, if any, giving either of the required notices, not later than sixty days after the declaration of forfeiture is recorded. Concurrently with commencement of the action, the person bringing the action shall record a lis pendens in each county in which any part of the property is located.

(3) The court may require that all payments specified in the notice of intent shall be paid into the court registry as a condition to maintaining an action to set aside the forfeiture. All payments falling due during the pendency of the action shall be paid into the registry of the court when due. These payments shall be calculated without regard to any acceleration provision in the contract (except an acceleration because of a transfer or conveyance of the purchaser's interest in the property) and without regard to the seller's contention the contract has been duly forfeited and shall not include the seller's costs and fees of the forfeiture. The court may make orders regarding the investment or disbursement of these funds and may authorize payments to third parties instead of the court registry.

(4) The forfeiture shall not be set aside unless (a) the rights of bona fide purchasers for value and of bona fide encumbrancers for value of the property would not thereby be adversely affected and (b) the person bringing the action establishes that the seller was not entitled to forfeit the contract at the time the seller purported to do so or that the seller did not materially comply with the requirements of this chapter.

(5) If the purchaser or other person commencing the action establishes a right to set aside the forfeiture, the court shall award the purchaser or other person commencing the action actual damages, if any, and may award the purchaser or other person its reasonable attorneys' fees and costs of the action. If the court finds that the forfeiture was conducted in compliance with this chapter, the court shall award the seller actual damages, if any, and may award the seller its reasonable attorneys' fees and costs of the action.

(6) The seller is entitled to possession of the property and to the rents, issues, and profits thereof during the pendency of an action to set aside the forfeiture: PROVIDED, That the court may provide that possession of the

property be delivered to or retained by the purchaser or some other person and may make other provision for the rents, issues, and profits.

NEW SECTION. Sec. 15. (1) Whoever knowingly swears falsely to any statement required by this chapter to be sworn is guilty of perjury and shall be liable for the statutory penalties therefor.

(2) A seller who records a declaration of forfeiture with actual knowledge or reason to know of a failure to comply with any requirement of this chapter is liable to any person whose interest in the property or the contract, or both, has been forfeited without compliance with this chapter for actual damages and actual attorneys' fees and costs of the action and, in the court's discretion, exemplary damages.

NEW SECTION. Sec. 16. An action brought under section 11, 12, or 14 of this act shall take precedence over all other civil actions except those described in RCW 59.12.130.

NEW SECTION. Sec. 17. This chapter may be known and cited as the real estate contract forfeiture act.

Sec. 18. Section 57, chapter 255, Laws of 1927 as last amended by section 162, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.01.228 are each amended to read as follows:

The purchaser of state lands under the provisions of this chapter, except in cases where the full purchase price is paid at the time of the purchase, shall enter into and sign a contract with the state, to be signed by the commissioner of public lands on behalf of the state, with the seal of his office attached, and in a form to be prescribed by the attorney general, in which he shall covenant that he will make the payments of principal and interest, computed from the date the contract is issued, when due, and that he will pay all taxes and assessments that may be levied or assessed on such land, and that on failure to make the payments as prescribed in this chapter when due(~~(, and for six months thereafter, that he will, on demand of the commissioner of public lands, surrender said premises, and that upon such failure for six months))~~) all rights of the purchaser under said contract may, at the election of the commissioner of public lands, acting for the state, (~~(and without notice to said purchaser, be declared to))~~) be forfeited, and that when (~~(so declared))~~) forfeited the state shall be released from all obligation to convey the land. The purchaser's rights under the real estate contract shall not be forfeited except as provided in chapter 61.— RCW (sections 1 through 17 of this 1985 act).

The contract provided for in this section shall be executed in duplicate, and one copy shall be retained by the purchaser and the other shall be filed in the office of the commissioner of public lands.

The commissioner of public lands may, as he deems advisable, extend the time for payment of principal and interest on contracts heretofore issued, and contracts to be issued under this chapter.

The commissioner of public lands shall notify the purchaser of any state lands in each instance when payment on his contract is overdue, and that he is liable to forfeiture if payment is not made (~~((within six months from the time the same became))~~) when due(~~(, unless the time be extended by the commissioner of public lands))~~).

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. Sections 1 through 17 of this act shall constitute a new chapter in Title 61 RCW.

NEW SECTION. Sec. 21. This act shall take effect January 1, 1986, and shall apply to all real estate contract forfeitures initiated on or after that date, regardless of when the real estate contract was made.

Passed the Senate March 8, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 238

[Substitute Senate Bill No. 3897]

INSURANCE—RECORDS AND REPORTS OF INSURERS

AN ACT Relating to insurance reporting; adding new sections to chapter 48.05 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 48.05 RCW to read as follows:

The insurance commissioner shall promulgate rules requiring insurers who are authorized to write malpractice insurance in the state of Washington to record and report their Washington state loss and expense experiences and other data, as required by section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 48.05 RCW to read as follows:

(1) The report required by section 1 of this act shall include the types of insurance written by the insurer for both commercial and personal policies pertaining to medical malpractice insurance for physicians and surgeons, hospitals, other health care professions, and other health care facilities individually.

(2) The report shall include the following data by the type of insurance for the previous year ending on the thirty-first day of December:

(a) Direct premiums written;

- (b) Direct premiums earned;
 - (c) Net investment income, including net realized capital gain and losses, using appropriate estimates where necessary;
 - (d) Incurred claims, development as the sum of the following:
 - (i) Dollar amount of claims closed with payments; plus
 - (ii) Reserves for reported claims at the end of the current year; minus
 - (iii) Reserves for reported claims at the end of the previous year; plus
 - (iv) Reserves for incurred but not reported claims at the end of the current year; minus
 - (v) Reserves for incurred but not reported claims at the end of the previous year; plus
 - (vi) Reserves for loss adjustment expense at the end of the current year; minus
 - (vii) Reserves for loss adjustment expense at the end of the previous year.
 - (e) Actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, advertising, general office expenses, taxes, licenses and fees, and all other expenses;
 - (f) Net underwriting gain or loss;
 - (g) Net operation gain or loss, including net investment income;
 - (h) The number and dollar amount of claims closed with payment, by year incurred and the amount reserved for them;
 - (i) The number of claims closed without payment and the dollar amount reserved for those claims; and
 - (j) Other information requested by the insurance commissioner.
- (3) The report shall be included as an addendum to the annual statement required by RCW 48.05.250.

NEW SECTION. Sec. 3. The requirements of sections 1 and 2 of this act shall commence with the year-end report for the reporting period ending December 31, 1986. In addition, the data required under section 2 of this act shall be provided for the years 1975 through 1985 and shall be filed with the commissioner on or before March 1, 1986.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 12, 1985.

Passed the House April 10, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 239

[Substitute Senate Bill No. 3602]
SAVINGS AND LOAN ASSOCIATIONS

AN ACT Relating to savings and loan associations; amending RCW 33.12.060 and 33.48.250; and adding a new section to chapter 33.40 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35, chapter 235, Laws of 1945 as last amended by section 25, chapter 3, Laws of 1982 and RCW 33.12.060 are each amended to read as follows:

(1) An association shall make no loan to or sell to or purchase any real property or securities from:

(a) Any director, officer, agent, or employee of an association ((or to or from));

(b) Any former director or incorporator of the association within one year of the termination of the relationship without the prior written approval of the supervisor;

(c) Any party involved, either directly or indirectly, in a stock tender offer for acquisition of the association, as determined by the supervisor, without the prior written approval of the supervisor; or

(d) Any public officer or public employee whose duties have to do with the supervision, regulation, or insurance of the association or its savings accounts.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Loans secured by the pledge or assignment of the savings account of the borrowing member;

(b) Loans made to directors, officers, agents, or employees of the association upon their property which is occupied principally by such director, officer, agent, or employee as a home, the amount of such loan to be based upon the appraised value of said property as established by two independent appraisers who are not officers, agents, directors, employees, or appraisers of the association;

(c) Loans made to directors, officers, or employees of the association upon their mobile dwelling, which is occupied principally by such director, officer, or employee as a home, the amount of such loan to be based upon the appraised value of the dwelling as established by two independent appraisers who are not directors, officers, employees, or appraisers of the association;

(d) Loans made to directors, officers, or employees of the association for home or property repairs, alterations, improvements, or additions, or home furnishings or appliances, for a residence which is occupied principally by such director, officer, or employee as a home;

(e) Loans made to directors, officers, or employees of the association for the payment of expenses of vocational training or college or university education; nor to

(f) Any other loans made to directors, officers, or employees of the association: PROVIDED, That the total value of the loans made or obligations acquired under authority of this section for any one director, officer, or employee shall not exceed such amount as prescribed by the supervisor under regulations adopted under the administrative procedure act, chapter 34.04 RCW. No loan may be made, credit extended, or obligation acquired unless the board of directors of the association has approved a resolution authorizing the same by a majority vote at a meeting of the board held within sixty days prior to the making or acquisition of the loan or obligation, and the vote and resolution shall be entered in the corporate minutes.

(3) A loan to or a purchase or sale to or from a partnership or corporation fifteen percent of which is owned by any one director, officer, agent, or employee of the association or twenty-five percent of which is owned by any combination of directors, officers, agents, or employees of the association shall be deemed a loan to or a purchase or sale to or from such director, officer, agent, or employee within the meaning of this section except when the transaction occurred without the knowledge or against the protest of such director, officer, agent, or employee of the association.

NEW SECTION. Sec. 2. A new section is added to chapter 33.40 RCW to read as follows:

(1) The supervisor of savings and loans, after exercising the authority granted in RCW 33.16.040, may appoint provisional officers and directors, in whole or in part, of an association.

(2) Notice of the appointment shall be served upon the association, and the appointment shall take effect immediately and shall remain in effect until a successor is chosen in accordance with the association's bylaws.

Sec. 3. Section 15, chapter 130, Laws of 1973 as amended by section 107, chapter 3, Laws of 1982 and RCW 33.48.250 are each amended to read as follows:

An association may purchase stock issued by it in an amount not to exceed the amount of earned surplus or undivided profits available for dividends on its stock if ((either)): The stock so purchased is included for federal estate tax purposes in determining the gross estate of a decedent, and the amount paid for such purchase is entitled to be treated under section 303 of the Internal Revenue Code of 1954 (68A Stat. 3; 26 U.S.C. Sec. 1), or other applicable federal statute or the corresponding provision of any future federal revenue law, as a distribution in full payment in exchange for the stock so purchased, or such purchase is with the prior consent of the supervisor, or such purchase is pursuant to a put option contained in a plan which has been approved by the supervisor establishing an employee stock

ownership plan for the association and its employees pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974", as now constituted or hereafter amended, or Section 409 of the Internal Revenue Code of 1954, as now constituted or hereafter amended. Stock so purchased until sold shall be carried as treasury stock. Upon the purchase of any stock issued by the association, an amount equal to the purchase price shall be set aside from earned surplus or undivided profits available for dividends to a specific reserve account established for this purpose. Upon sale of any of such stock, the amount relating thereto in the specific reserve account shall be returned to the surplus or undivided profits account (as the case may be) and shall be available for dividends. Reacquired stock shall not be resold at less than its reacquisition cost, without the specific approval of the supervisor, and shall not be resold or reissued except in accordance with RCW 33.48.220 through 33.48.240.

Passed the Senate March 11, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 240

[Engrossed Senate Bill No. 3374]

ATTORNEY FEES

AN ACT Relating to attorney fees; and amending RCW 4.84.080 and 12.20.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 374, page 202, Laws of 1854 as last amended by section 3, chapter 331, Laws of 1981 and RCW 4.84.080 are each amended to read as follows:

When allowed to either party, costs to be called the attorney fee, shall be as follows:

(1) In all actions where judgment is rendered, one hundred twenty-five dollars.

(2) In all actions where judgment is rendered in the supreme court or the court of appeals, after argument, one hundred twenty-five dollars.

Sec. 2. Section 85, page 237, Laws of 1854 as last amended by section 89, chapter 258, Laws of 1984 and RCW 12.20.060 are each amended to read as follows:

When the prevailing party in district court is entitled to recover costs as authorized in RCW 4.84.010 in a civil action, the judge shall add the amount thereof to the judgment; in case of failure of the plaintiff to recover or of dismissal of the action, the judge shall enter up a judgment in favor of the defendant for the amount of his costs; and in case any party so entitled to costs is represented in the action by an attorney, the judge shall include

attorney's fees of ~~((twenty-five))~~ fifty dollars as part of the costs: PROVIDED, HOWEVER, That the plaintiff shall not be entitled to such attorney fee unless he obtains, exclusive of costs, a judgment in the sum of twenty-five dollars or more.

Passed the Senate March 8, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 241

[Substitute Senate Bill No. 3951]

NORTHERN STATE HOSPITAL—FEASIBILITY STUDY

AN ACT Relating to Northern State Hospital; creating a new section; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A feasibility study shall be conducted under the direction of the Skagit county council of governments of the reuse of the facilities at Northern State Hospital. The study shall be completed by June 30, 1986, and shall include but not be limited to:

(1) The establishment of a service center for the neurologically impaired; and

(2) The utilization of eight hundred acres for a fairground and location of an agricultural technical center in northwestern Washington.

NEW SECTION. Sec. 2. There is appropriated from the general fund to the department of community development to be allocated to the Skagit county council of governments for the biennium ending June 30, 1985, the sum of ten thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act: PROVIDED, That the appropriation shall not be spent unless the Skagit county council of governments provides at least ten thousand dollars in matching funds.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 22, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 242

[Substitute Senate Bill No. 3122]

DEPARTMENT OF TRANSPORTATION—BID PROPOSALS

AN ACT Relating to bid proposals for the department of transportation; and amending RCW 47.28.060, 47.28.080, and 47.28.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 47.28.060, chapter 13, Laws of 1961 as last amended by section 168, chapter 7, Laws of 1984 and RCW 47.28.060 are each amended to read as follows:

Any person, firm, or corporation is entitled to receive copies of the maps, plans, specifications, and directions for any work upon which call for bids has been published, upon ~~((written))~~ request therefor and subsequent payment to the department of a reasonable sum as required by the department in the call for bids for each copy of such maps, plans, and specifications. Any money so received shall be certified by the department to the state treasurer and deposited to the credit of the motor vehicle fund. The department may deliver with or without charge informational copies of maps, plans, specifications, and directions at such places as it may ~~((from time to time))~~ designate.

Sec. 2. Section 47.28.080, chapter 13, Laws of 1961 as amended by section 170, chapter 7, Laws of 1984 and RCW 47.28.080 are each amended to read as follows:

Any person, firm, or corporation proposing a bid for the construction or improvement of any state highway in response to a call for bids published therefor may withdraw the bid proposal without forfeiture and without prejudice to the right of the bidder to file a new bid proposal before the time fixed for the opening of the bid proposals. The request for the withdrawal shall be made in writing, signed by the person proposing the bid or his duly authorized agent, and filed ~~((with the department))~~ at the place and before the time fixed ~~((for the opening))~~ in the call for bids for receipt of the bid proposals. No bid proposal may be considered that has not been filed with the department before the time fixed for the ~~((opening))~~ receipt of bid proposals. In any provisions regarding the filing or withdrawing of bid proposals the time fixed for the ~~((opening))~~ receipt of bid proposals in the call for bid proposals as published shall control without regard for the time when the bid proposals are actually opened.

Sec. 3. Section 47.28.090, chapter 13, Laws of 1961 as last amended by section 17, chapter 120, Laws of 1983 and RCW 47.28.090 are each amended to read as follows:

At the time and place named in the call for bids the department of transportation shall publicly open and read the final figure in each of the bid

proposals that have been properly filed and read only the ~~((bid items on))~~ unit prices of the three lowest bids, and shall award the contract to the lowest responsible bidder unless the department has, for good cause, continued the date of opening bids to a day certain, or rejected ~~((said))~~ that bid~~((: PROVIDED, That))~~. Any bid may be rejected if the bidder has previously defaulted in the performance of and failed to complete a written public contract, or has been convicted of a crime arising from a previous public contract. If the lowest responsible bidder fails to meet the provisions or specifications requiring compliance with chapter 39.19 RCW and the rules adopted to implement that chapter, the department may award the contract to the next lowest responsible bidder which does meet the provisions or specifications or may reject all bids and readvertise. All bids shall be under sealed cover and accompanied by deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid, and ~~((no))~~ a bid shall not be considered unless the deposit is enclosed ~~((therewith))~~ with it.

Passed the Senate February 7, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 243

[Substitute House Bill No. 179]

MIGRATORY WATERFOWL—HUNTING STAMP

AN ACT Relating to migratory waterfowl; amending RCW 77.32.350; adding a new section to chapter 77.08 RCW; adding new sections to chapter 77.12 RCW; adding a new section to chapter 77.16 RCW; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 310, Laws of 1981 as amended by section 6, chapter 240, Laws of 1984 and RCW 77.32.350 are each amended to read as follows:

(1) A hound stamp is required to hunt wild animals with a dog. The fee for this stamp is six dollars.

(2) An upland game bird stamp is required to hunt for quail, partridge, and pheasant in areas designated by rule of the commission. The fee for this stamp is six dollars.

(3) An archery stamp is required to hunt with a bow and arrow during seasons established exclusively for hunting in that manner. The fee for this stamp is six dollars.

(4) A muzzleloading firearm stamp is required to hunt with a muzzle-loading firearm during seasons established exclusively for hunting in that manner. The fee for this stamp is six dollars.

(5) A falconry stamp is required to hunt with a falcon during seasons established exclusively for hunting in that manner. The fee for this stamp is fifteen dollars.

(6) To be valid, stamps required under this section shall be permanently affixed to the licensee's appropriate hunting or fishing license.

(7) A migratory waterfowl stamp is required to hunt migratory waterfowl. The fee for the stamp is five dollars. The migratory waterfowl stamp shall be required in the hunting season starting not later than the fall of 1986.

(8) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

(9) Stamps required by this section expire on March 31st following the date of issuance except for hound stamps, which expire December 31st following the date of issuance.

NEW SECTION. Sec. 2. A new section is added to chapter 77.08 RCW to read as follows:

As used in this title or rules of the commission:

(1) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks, geese, and swans;

(2) "Migratory waterfowl stamp" means the stamp that is required by RCW 77.32.350 to be in the possession of persons over sixteen years of age to hunt migratory waterfowl;

(3) "Prints and artwork" means replicas of the original stamp design that are sold to the general public. Prints and artwork are not to be construed to be the migratory waterfowl stamp that is required by RCW 77.32.350. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications, or any other kind of design; and

(4) "Migratory waterfowl art committee" means the committee created by section 5 of this act. The committee's primary function is to select the annual migratory waterfowl stamp design.

NEW SECTION. Sec. 3. A new section is added to chapter 77.16 RCW to read as follows:

It is unlawful for any person over sixteen years of age to hunt any migratory waterfowl without first obtaining a migratory waterfowl stamp as required by RCW 77.32.350.

NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW to read as follows:

The migratory waterfowl stamp to be produced by the department shall use the design as provided by the migratory waterfowl art committee.

All revenue derived from the sale of the stamps by the department shall be deposited in the state game fund and shall be used only for the cost of printing and production of the stamp and for those migratory waterfowl

projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection, and propagation of migratory waterfowl in the state. Acquisition shall include but not be limited to the acceptance of gifts of real estate or any interest therein or the rental, lease, or purchase of real estate or any interest therein. If the department acquires any fee interest, leasehold, or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, insure that the deed or other instrument creating the interest allows such access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to insure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission.

The department may produce migratory waterfowl stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the migratory waterfowl art committee for sale to the public.

NEW SECTION. Sec. 5. A new section is added to chapter 77.12 RCW to read as follows:

(1) There is created the migratory waterfowl art committee which shall be composed of nine members.

(2)(a) The committee shall consist of one member appointed by the governor, six members appointed by the director of game, one member appointed by the chairman of the state arts commission, and one member appointed by the director of the department of agriculture.

(b) The member appointed by the director of the department of agriculture shall represent state-wide farming interests.

(c) The member appointed by the chairman of the state arts commission shall be knowledgeable in the area of fine art reproduction.

(d) The members appointed by the governor and the director of game shall be knowledgeable about waterfowl and waterfowl management. The six members appointed by the director of game shall represent, respectively:

(i) An eastern Washington sports group;

(ii) A western Washington sports group;

(iii) A group with a major interest in the conservation and propagation of migratory waterfowl;

(iv) A state-wide conservation organization;

(v) A state-wide sports hunting group; and

(vi) The general public.

The members of the committee shall serve three-year staggered terms and at the expiration of their term shall serve until qualified successors are

appointed. Of the nine members, three shall serve initial terms of four years, three shall serve initial terms of three years, and three shall serve initial terms of two years. The appointees of the governor, the chairman of the state arts commission, and the director of agriculture shall serve the initial terms of four years. Vacancies shall be filled for unexpired terms consistent with this section. A chairman shall be elected annually by the committee. The committee shall review the director of game's expenditures of the previous year of both the stamp money and the prints and related artwork money. Members of the committee shall serve without compensation.

NEW SECTION. Sec. 6. A new section is added to chapter 77.12 RCW to read as follows:

The migratory waterfowl art committee is responsible for the selection of the annual migratory waterfowl stamp design and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. The administration, sale, distribution, and other matters relating to the prints and sales of stamps with prints and related artwork shall be the responsibility of the migratory waterfowl art committee.

The total amount brought in from the sale of prints and related artwork shall be deposited in the state game fund. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director, shall be paid out of the total amount brought in from sales of those same items. Net funds derived from the sale of prints and related artwork shall be used by the director of game to contract with one or more appropriate individuals or non-profit organizations for the development of waterfowl propagation projects within Washington which specifically provide waterfowl for the Pacific flyway. The department shall not contract with any individual or organization that obtains compensation for allowing waterfowl hunting except if the individual or organization does not permit hunting for compensation on the subject property.

The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the game commission and to the natural resources committees of the house and senate.

NEW SECTION. Sec. 7. There is appropriated to the migratory waterfowl art committee from the state game fund for the biennium ending June 30, 1987, the sum of five thousand dollars, to be used for the initiation of the program provided for in section 6 of this act. The appropriation shall

be repaid to the state game fund with moneys generated from the sale of art prints and related artwork.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 244

[Engrossed Substitute House Bill No. 323]

NISQUALLY RIVER—MANAGEMENT PLAN

AN ACT Relating to the Nisqually river system; creating new sections; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) The Nisqually river, its waters, and beds have been statutorily characterized for more than a decade as an area of state-wide significance by the people of the state;

(b) The river is a highly prized area of great natural beauty that extends through four biological zones of Washington state from the peak of Mount Rainier to the Nisqually Delta;

(c) The productive uses of the river may well be enhanced in terms of recreation, fish and wildlife habitat, forestry, agriculture, and other benefits associated with the basin if a carefully developed program of stewardship for the area is established;

(d) Notwithstanding existing governmental units' management programs, including those developed under the shoreline management act, an optimum management program designed to achieve maximum benefits for the public and the private landowning community for the use of this valuable natural river corridor has not been established;

(e) The Nisqually river corridor has been historically used for such productive uses as agriculture, education, forestry, hunting, fishing, mining, military maneuvers, irrigation, and electric power production.

(2) It is the purpose of this act to initiate a process that emphasizes the natural and economic values of this river of state-wide significance and that will bring about a stewardship program for the Nisqually river that will assure enhancement of economic and recreational benefits for this generation as well as those to come.

NEW SECTION. Sec. 2. (1) The department of ecology is directed to develop an overall management plan for the Nisqually river consistent with the findings and objectives of section 1 of this act. This plan shall set forth with reasonable specificity, the boundaries of the managed area, the management objectives for the various reaches of the river, the institutional arrangements for carrying out the plan, the moneys and funding sources for successful plan implementation and property owner compensation, and the economic impact on private property owners. If this plan requires private property owners to sell property they own, the property owners shall receive fair market value for their property interests. Taking of less than the fee interest shall be in accordance with RCW 84.34.200 through 84.34.240.

(2) In order to accomplish this task the department shall establish advisory committees to provide technical assistance and policy guidance. Membership on the advisory committees shall include but not be limited to persons representing the interests of federal, state, and local governmental entities, agriculture, forestry, the Nisqually Indian tribe, other property owners, and environmentalists.

NEW SECTION. Sec. 3. The department shall submit a report to the president of the senate and the speaker of the house of representatives not later than January 6, 1986. The report shall set forth a management plan as directed by section 2 of this act and any proposed legislation recommended or required to implement the plan. The plan shall not be implemented before adoption by the legislature, however, this section shall not prevent the department from performing duties and functions otherwise authorized by law.

NEW SECTION. Sec. 4. This act shall not limit the rights of private or public property owners without fair monetary compensation nor may this act require that private property owners sell their property for less than fair market value.

NEW SECTION. Sec. 5. There is appropriated from the general fund to the department of ecology for the biennium ending June 30, 1987, the sum of forty-two thousand five hundred sixteen dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 6. Sections 1 through 6 of this act shall not be codified.

Passed the House April 22, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 245

[Second Substitute House Bill No. 356]

STATE SOCIAL SERVICES—RECIPIENT REIMBURSEMENT

AN ACT Relating to reimbursement for social and health services; amending RCW 10.77.250, 10.82.080, 71.02.413, 72.23.230, 72.33.180, 72.33.670, 74.04.530, 74.04.540, and 74.04.550; adding a new section to chapter 74.04 RCW; creating a new section; repealing RCW 71.02.416; and declaring an emergency

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 25, chapter 117, Laws of 1973 1st ex. sess. and RCW 10.77.250 are each amended to read as follows:

~~((Notwithstanding any provision of the Revised Code of Washington to the contrary;))~~ The department shall be responsible for all costs relating to the evaluation and treatment of persons committed to it pursuant to any provisions of this chapter, and the logistical and supportive services pertaining thereto. Reimbursement may be obtained by the department pursuant to RCW ((71.02.380)) 71.02.411.

Sec. 2. Section 1, chapter 201, Laws of 1982 and RCW 10.82.080 are each amended to read as follows:

(1) When a superior court has, as a condition of the sentence for a person convicted of the unlawful receipt of public assistance, ordered restitution to the state of that overpayment or a portion thereof ~~((of it))~~;

(a) The department of social and health services shall deduct the overpayment from subsequent assistance payments as provided in chapter 74.04 RCW, when the person is receiving public assistance; or

(b) Ordered restitution payments ~~((shall))~~ may be made at the direction of the court to the clerk of the appropriate county or directly to the department of social and health services when the person is not receiving public assistance.

(2) However, if payments are received by the county clerk, each payment shall ~~((transmit those funds))~~ be transmitted to the department of social and health services within forty-five days after receipt by the county.

~~((3) The department of social and health services shall not be precluded from deducting the overpayments from subsequent assistance payments to the convicted person as provided in RCW 74.04.300 if the court has not ordered restitution under subsection (1) of this section;))~~

Sec. 3. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 33, chapter 67, Laws of 1981 and RCW 71.02.413 are each amended to read as follows:

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the ~~((monthly))~~ charges for hospitalization, and/or charges for outpatient services, a notice ~~((of))~~ and finding of responsibility shall be served on such person or ~~((persons and the~~

~~legal~~) the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay ~~((per-month))~~ not to exceed the ~~((monthly))~~ costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410, or as otherwise limited by the provisions of RCW ~~((71.02.230,))~~ 71.02.320~~((;))~~ and 71.02.410 through 71.02.417. The responsibility for the payment to the department of social and health services shall commence thirty days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible ~~((either personally, or, by registered or certified mail, enclosing a form for acknowledgment of service with return postage prepaid. If service is by mailing and a form of acknowledgment of service is not executed and returned to the department, then personal service must be made for the finding of responsibility to be effective))~~ in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal may be made to the secretary of social and health services, or ~~((his))~~ the secretary's designee within thirty days from the date of ~~((posting))~~ service of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary of social and health services by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by an administrative law judge appointed under chapter 34.12 RCW, and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the administrative law judge shall make findings of fact and ~~((his))~~ conclusions and recommended determination of responsibility. Thereafter, the secretary, or ~~((his))~~ the secretary's designee, may either affirm, reject, or modify the findings, conclusions, and determination of responsibility made by the administrative law judge. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 4. Section 72.23.230, chapter 28, Laws of 1959 as last amended by section 1, chapter 82, Laws of 1971 and RCW 72.23.230 are each amended to read as follows:

The superintendent of a state hospital shall be the custodian without compensation of such personal property of a patient involuntarily hospitalized therein as may come into the superintendent's possession while the patient is under the jurisdiction of the hospital. As such custodian, the superintendent shall have authority to disburse moneys from the patients' funds for the following purposes only and subject to the following limitations:

(1) The superintendent may disburse any of the funds in his possession belonging to a patient for such personal needs of that patient as may be deemed necessary by the superintendent; and

(2) Whenever the funds belonging to any one patient exceed the sum of ~~((three hundred))~~ one thousand dollars or a greater sum as established by rules and regulations of the department, the superintendent may apply the excess to ~~((the payment of the))~~ reimbursement for state hospitalization and/or outpatient charges of such patient ~~((except, reduction of such funds to a lesser amount may be made where necessary to qualify such patient for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such patient, and to qualify such patient for the payment from any public or private program providing benefits for the payment of all or a portion of the costs of care, treatment hospitalization, support, training, or rehabilitation or for the discharge of the liabilities imposed by the provisions of RCW 71.02.411))~~ to the extent of a notice and finding of responsibility issued under RCW 71.02.413; and

(3) When a patient is paroled, the superintendent shall deliver unto the said patient all or such portion of the funds or other property belonging to the patient as the superintendent may deem necessary and proper in the interests of the patient's welfare, and the superintendent may during the parole period deliver to the patient such additional property or funds belonging to the patient as the superintendent may from time to time determine necessary and proper. When a patient is discharged from the jurisdiction of the hospital, the superintendent shall deliver to such patient all funds or other property belonging to the patient, subject to the conditions of subsection (2) of this section.

All funds held by the superintendent as custodian may be deposited in a single fund. Annual reports of receipts and expenditures shall be forwarded to the department, and shall be open to inspection by interested parties: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the patients of such institution: PROVIDED, FURTHER, That when the personal accounts of patients exceed three hundred dollars, the interest accruing from such excess shall be credited to the personal accounts of such patients. All such expenditures shall be accounted for by the superintendent.

The appointment of a guardian for the estate of such patient shall terminate the superintendent's authority to pay state hospitalization charges from funds subject to the control of the guardianship upon the superintendent's receipt of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall forward to such guardian any funds subject to the control of the guardianship or other property of the patient remaining in the superintendent's possession, together with a final accounting of receipts and expenditures.

Sec. 5. Section 72.33.180, chapter 28, Laws of 1959 as last amended by section 1, chapter 118, Laws of 1971 ex. sess. and RCW 72.33.180 are each amended to read as follows:

The superintendent of a state school shall serve as custodian without compensation of such personal property of a resident as may be located at the school, including moneys deposited with the superintendent for the benefit of such resident. As such custodian, the superintendent shall have authority to disburse moneys from the resident's fund for the following purposes and subject to the following limitations:

(1) Subject to specific instructions by a donor of money to the superintendent for the benefit of a resident, the superintendent may disburse any of the funds belonging to a resident for such personal needs of such resident as the superintendent may deem proper and necessary.

(2) The superintendent may pay to the department (~~(of social and health services)~~) as reimbursement for the costs of care, support, maintenance, treatment, hospitalization, medical care and rehabilitation of a resident from the resident's fund when such fund exceeds (~~(two hundred)~~) one thousand dollars or a greater sum as established by rules and regulations of the department, to the extent of any notice and finding of financial responsibility served upon the superintendent after such findings shall have become final (~~(except, reduction of such funds to another amount may be made where necessary to qualify such person for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such person, and to qualify such person for the payment of the liabilities from any public or private program providing benefits for the payment of all or a portion of the costs of care, treatment, hospitalization, support, training, or rehabilitation)~~): PROVIDED, That if such resident does not have a guardian, parent, spouse, or other person acting in a representative capacity, upon whom notice and findings of financial responsibility have been served then the superintendent shall not make payments to the department (~~(of social and health services)~~) as above provided, until a guardian has been appointed by the court, and the time for the appeal of findings of financial responsibility as provided in RCW 72.33.670 shall not commence to run until the appointment of such guardian and the service upon (~~(him)~~) the guardian of notice and findings of financial responsibility.

(3) When a resident is granted placement, the superintendent shall deliver to said resident, or the parent, guardian, or agency legally responsible for the resident, all or such portion of the funds of which the superintendent is custodian as above defined, or other property belonging to the resident, as the superintendent may deem necessary to the resident's welfare, and the superintendent may during such placement deliver to the former resident such additional property or funds belonging to the resident as the superintendent may from time to time deem proper. When the conditions of placement have been fully satisfied and the resident is discharged, the superintendent shall deliver to such resident, or the parent, person, or agency legally responsible for the resident, all funds or other property belonging to the resident remaining in his possession as custodian.

(4) All funds held by the superintendent as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by ~~((him))~~ the superintendent: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be ~~((used by the superintendent for the general welfare of all the residents of such institution. PROVIDED, FURTHER, That when the personal accounts of residents exceed three hundred dollars, the interest accruing therefrom shall be))~~ credited to the personal accounts of such residents. All such expenditures shall be subject to the duty of accounting provided for in this section.

(5) The appointment of a guardian for the estate of such resident shall terminate the superintendent's authority as custodian of ~~((a resident's))~~ any funds of the resident which may be subject to the control of the guardianship upon receipt by the superintendent of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall immediately forward to such guardian any funds subject to the control of the guardianship or other property of the resident remaining in the superintendent's possession together with a full and final accounting of all receipts and expenditures made therefrom.

(6) Upon receipt of a written request from the superintendent stating that a designated individual is a resident of the state school for which he has administrative responsibility and that such resident has no legally appointed guardian of his estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed two hundred dollars, deliver the same to the superintendent as custodian and mail written notice thereof to such resident at the state school. The receipt of the superintendent shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his legal representatives. All funds so received by the superintendent shall be duly deposited by him as custodian in the resident's fund to the personal account of such resident.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, corporation, or agency effecting such delivery to the superintendent, and the state shall indemnify such person, bank, corporation, or agency against any judgment rendered as a result of such proceeding.

Sec. 6. Section 5, chapter 141, Laws of 1967 as last amended by section 7, chapter 189, Laws of 1982 and RCW 72.33.670 are each amended to read as follows:

In all cases where a determination is made that the estate of a ~~((mentally or physically deficient person who resides at))~~ resident of a state ((residential)) school is able to pay all or any portion of the ((monthly)) charges, a notice and finding of ((financial)) responsibility shall be ((personally)) served on the guardian of the resident's estate, or if no guardian has been appointed then to ((his)) the resident, the resident's spouse ((or parents)), or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state ~~((residential))~~ school and the superintendent of the state ~~((residential))~~ school. The notice shall set forth the amount the department has determined that such estate is able to pay ~~((per month))~~, not to exceed the ~~((monthly))~~ charge as fixed in accordance with RCW 72.33.660, and the responsibility for payment to the department ~~((of social and health services))~~ shall commence thirty days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by ~~((his))~~ the resident, the resident's spouse, ((parent or parents)) or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state ~~((residential))~~ school, within such thirty day period upon written notice of appeal being served upon the secretary by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by an administrative law judge appointed under chapter 34.12 RCW and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of RCW 72.33.650 through 72.33.700, the rules and regulations of the department ~~((of social and health services)),~~ and the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 7. Section 1, chapter 102, Laws of 1973 1st ex. sess. as amended by section 17, chapter 201, Laws of 1982 and RCW 74.04.530 are each amended to read as follows:

~~((Notwithstanding any provisions in Title 51 RCW to the contrary,))~~
By accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover ~~((net))~~ time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW ~~((of up to eighty percent of))~~ to the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: PROVIDED, That the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred by the injured ~~((workman))~~ worker or ~~((his))~~ the worker's dependents. The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section~~((: PROVIDED, FURTHER, That no claim for payment under chapter 73.34 RCW shall be subject to garnishment, attachment, levy, or execution))~~.

Sec. 8. Section 2, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.540 are each amended to read as follows:

The ~~((form of))~~ lien and notice to withhold and deliver in RCW 74.04.530 shall be signed by the secretary or ~~((his))~~ the secretary's authorized representative and shall ~~((be substantially as follows:~~

~~STATEMENT OF LIEN AND NOTICE
TO WITHHOLD AND DELIVER~~

~~TO: State of Washington, Department of Labor and Industries~~

~~NOTICE IS HEREBY GIVEN THAT DURING THE PERIOD commencing and ending, the department of social and health services furnished public assistance to in the amount of \$....., and therefore it claims a lien in the amount of \$....., upon time loss compensation payable to said recipient for or during said period in the amount above stated. You are therefore commanded to withhold and deliver to the department of social and health services, to the extent of the amount claimed due, any funds you now hold or which may come into your possession on account of time loss compensation payable to said recipient for or during the period mentioned.~~

~~STATE OF WASHINGTON;
DEPARTMENT OF SOCIAL
AND HEALTH SERVICES
BY
(Title))~~

identify the recipient of public assistance and time loss compensation, the amount claimed by the department, and the demand to withhold and deliver the sum claimed by the department.

Sec. 9. Section 3, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.550 are each amended to read as follows:

The effective date of the statement of lien and notice to withhold and deliver provided in RCW 74.04.540, shall be the day that it is received by the director of the department of labor and industries ((or)), an employee of ((his)) the director's office of suitable discretion, or a self-insurer as defined in chapter 51.08 RCW: PROVIDED, That service of such statement of lien and notice to withhold and deliver may be made personally or by regular mail, postage prepaid: PROVIDED, FURTHER, That a copy of the statement of lien and notice to withhold and deliver shall be mailed to the recipient at ((his)) the recipient's last known address by certified mail, return receipt requested, no later than ((three days)) the next business day after such statement of lien and notice to withhold and deliver has been mailed or delivered to the department of labor and industries or to a self-insurer as defined in chapter 51.08 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 74.04 RCW to read as follows:

When the department provides grant assistance to persons who possess excess real property under RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor.

NEW SECTION. Sec. 11. Sections 3 and 6 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 13. Section 9, chapter 127, Laws of 1967 ex. sess., section 128, chapter 141, Laws of 1979 and RCW 71.02.416 are each repealed.

Passed the House March 19, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 246

[House Bill No. 139]

MUNICIPAL AIRPORTS—FIRE CODE ENFORCEMENT JURISDICTION

AN ACT Relating to municipal airports; and amending RCW 14.08.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15, chapter 182, Laws of 1945 and RCW 14.08.330 are each amended to read as follows:

Every airport and other air navigation facility controlled and operated by any municipality, or jointly controlled and operated pursuant to the provisions of this chapter, shall, subject to federal and state laws, rules, and regulations, be under the exclusive jurisdiction and control of the municipality or municipalities controlling and operating it ~~((and))~~. The municipality or municipalities shall have concurrent jurisdiction over the adjacent territory described in RCW 14.08.120(2). No other municipality in which ~~((such))~~ the airport or air navigation facility is located shall have any police jurisdiction of the same or any authority to charge or exact any license fees or occupation taxes for the operations ~~((thereon. Such municipality or municipalities shall have concurrent jurisdiction over the adjacent territory described in RCW 14.08.120(2))).~~ However, by agreement with the municipality operating and controlling the airport or air navigation facility, a municipality in which an airport or air navigation facility is located may be responsible for the administration and enforcement of the uniform fire code, as adopted by that municipality under RCW 19.27.040, on that portion of any airport or air navigation facility located within its jurisdictional boundaries.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 247

[Substitute House Bill No. 297]

ORGANIC FOOD PRODUCTS

AN ACT Relating to organic food products; adding a new section to chapter 19.86 RCW; adding a new chapter to Title 15 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature recognizes a public benefit in establishing standards for food products marketed and labeled using the term "organic" or a derivative of the term "organic." Such standards shall

also facilitate the development of out-of-state markets for Washington food grown by organic methods.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Organic food" means any food product, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic in its labeling or advertising.

(3) "Producer" means any person or organization who or which (a) grows, raises, or produces a food product; and (b) sells the food product as, or offers it for sale as, an organic food.

(4) "Vendor" means anyone who sells organic food to the consumer or another vendor.

NEW SECTION. Sec. 3. A producer or a vendor shall not sell or offer for sale any food product with the representation that the product is an organic food if the producer or vendor knows, or has reason to know, that the food has been grown, raised, or produced with the use of any of the following substances: (1) Fertilizers but excluding manures and other natural fertilizers; (2) any of the following when manufactured by man: Pesticides, hormones, antibiotics, or growth stimulants but excluding *Bacillus thuringiensis* and other natural pesticides; (3) arsenicals; or (4) similar substances listed by the director under section 6 of this act. A food product shall be considered as "grown, raised, or produced" with a substance specified in this section or listed by the director under section 6 of this act if the substance is applied at any time before sale to retail purchasers. Also, crops shall be considered "grown, raised, or produced" with such a substance if, within one year before seed planting or transplanting or, in the case of perennial crops, within one year before the appearance of the flower bud, the substance is applied to the soil or other growing medium.

NEW SECTION. Sec. 4. Display placards for the on premise sale of organic food and labels pertaining to organic food shall include the name and address of the producer of the food. Any advertising for the mail order sale of organic food shall include the name and address of the producer of the food. Each producer or vendor responsible for making the labels, placards, or advertising shall maintain such records pertaining thereto as the department may reasonably require. The producer or vendor shall furnish to the department any records requested by it.

NEW SECTION. Sec. 5. A producer shall not sell to a vendor any food product which the producer represents as an organic food unless before the sale the producer provides the vendor with a sworn statement that the producer has grown, raised, or produced the product in conformance with section 3 of this act.

NEW SECTION. Sec. 6. (1) The director shall adopt such rules and regulations, in conformity with chapter 34.04 RCW, as the director believes are appropriate for the proper administration of this chapter.

(2) Whenever the director believes it appropriate to protect the interest of consumers of organic foods, the director shall add to the list of substances that may not be included in organic foods under this chapter.

(3) The director shall issue orders to producers or vendors whom it finds are violating any provision of this chapter, or rules or regulations adopted under this chapter, to cease their violations and desist from future violations. Whenever the director finds that a producer or vendor has committed a violation, the director shall impose on and collect from the violator a civil fine not exceeding the total of the following amounts: (a) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions in respect to the violation; and (b) one thousand dollars.

NEW SECTION. Sec. 7. A new section is added to chapter 19.86 RCW to read as follows:

Any violation of section 3 of this act shall also constitute a violation under RCW 19.86.020.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act shall constitute a new chapter in Title 15 RCW.

Passed the House April 22, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 248

[Substitute House Bill No. 466]
FISH DEALERS AND BUYERS

AN ACT Relating to fish dealers and buyers; amending RCW 75.28.300; adding a new section to chapter 75.10 RCW; adding new sections to chapter 75.28 RCW; repealing RCW 75.28.350; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.28.300, chapter 12, Laws of 1955 as last amended by section 132, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.300 are each amended to read as follows:

A wholesale fish dealer's license is required for:

(1) A business in the state to engage in the commercial processing of food fish or shellfish, including custom canning or processing of personal use food fish or shellfish.

(2) A business in the state to engage in the wholesale selling, buying, or brokering of food fish or shellfish. A wholesale fish dealer's license is not

required of those businesses which buy exclusively from Washington licensed wholesale dealers and sell solely at retail.

(3) Fishermen or aquaculturists who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state.

(4) A business to engage in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish.

(5) A business employing a fish buyer as defined under section 2 of this 1985 act.

The annual license fee is thirty-seven dollars and fifty cents. A wholesale fish dealer's license is not required for persons buying or selling oyster seed for transplant.

NEW SECTION. Sec. 2. A new section is added to chapter 75.28 RCW to read as follows:

(1) A fish buyer's permit is required of and shall be carried by each individual engaged by a wholesale fish dealer as a fish buyer. A fish buyer may represent only one wholesale fish dealer.

(2) The annual fee for a fish buyer's permit is seven dollars and fifty cents.

(3) As used in this chapter, "fish buyer" means an individual who purchases food fish or shellfish and is a permit holder under this section.

NEW SECTION. Sec. 3. A new section is added to chapter 75.28 RCW to read as follows:

A wholesale dealer who is an individual may be a fish buyer.

NEW SECTION. Sec. 4. A new section is added to chapter 75.28 RCW to read as follows:

Wholesale fish dealers are responsible for documenting the commercial harvest of food fish and shellfish according to the rules of the director. The director may allow only wholesale fish dealers or their designees to receive the forms necessary for the accounting of the commercial harvest of food fish and shellfish.

NEW SECTION. Sec. 5. A new section is added to chapter 75.10 RCW to read as follows:

Since violation of the rules of the director relating to the accounting of the commercial harvest of food fish and shellfish result in damage to the resources of the state, liability for damage to food fish and shellfish resources is imposed on a wholesale fish dealer for violation of a provision in chapter 75.28 RCW or a rule of the director related to the accounting of the commercial harvest of food fish and shellfish and shall be for the actual damages or for damages imposed as follows:

(1) For violation of rules requiring the timely presentation to the department of documents relating to the accounting of commercial harvest,

fifty dollars for each of the first fifteen documents in a series and ten dollars for each subsequent document in the same series. If documents relating to the accounting of commercial harvest of food fish and shellfish are lost or destroyed and the wholesale dealer notifies the department in writing within seven days of the loss or destruction, the director shall waive the requirement for timely presentation of the documents.

(2) For violation of rules requiring accurate and legible information relating to species, value, harvest area, or amount of harvest, twenty-five dollars for each of the first five violations of this subsection following the effective date of this act and fifty dollars for each violation after the first five violations.

(3) For violations of rules requiring certain signatures, fifty dollars for each of the first two violations and one hundred dollars for each subsequent violation. For the purposes of this subsection, each signature is a separate requirement.

(4) For other violations of rules relating to the accounting of the commercial harvest, fifty dollars for each separate violation.

NEW SECTION. Sec. 6. A new section is added to chapter 75.28 RCW to read as follows:

(1) A wholesale fish dealer shall not take possession of food fish or shellfish until the dealer has deposited with the department an acceptable performance bond on forms prescribed and furnished by the department. This performance bond shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department. The bond shall be filed and maintained in an amount equal to one thousand dollars for each buyer engaged by the wholesale dealer. In no case shall the bond be less than two thousand dollars nor more than fifty thousand dollars.

(2) A wholesale dealer shall, within seven days of engaging additional fish buyers, notify the department and increase the amount of the bonding required in subsection (1) of this section.

(3) The director may suspend and refuse to reissue a wholesale fish dealer's license of a dealer who has taken possession of food fish or shellfish without an acceptable performance bond on deposit with the department.

(4) The bond shall be conditioned upon the compliance with the requirements of this chapter and rules of the director relating to the payment of fines for violations of rules for the accounting of the commercial harvest of food fish or shellfish. In lieu of the surety bond required by this section the wholesale fish dealer may file with the department a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account or of a savings certificate in a Washington bank on an assignment form prescribed by the department.

(5) Liability under the bond shall be maintained as long as the wholesale fish dealer engages in activities under RCW 75.28.300 unless released.

Liability under the bond may be released only upon written notification from the department. Notification shall be given upon acceptance by the department of a substitute bond or forty-five days after the expiration of the wholesale fish dealer's annual license. In no event shall the liability of the surety exceed the amount of the surety bond required under this chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 75.28 RCW to read as follows:

The director shall promptly notify by order a wholesale dealer and the appropriate surety when a violation of rules relating to the accounting of commercial harvest has occurred. The notification shall specify the type of violation, the liability to be imposed for damages caused by the violation, and a notice that the amount of liability is due and payable to the department by the wholesale fish dealer and the surety.

If the amount specified in the order is not paid within thirty days after receipt of the notice, the prosecuting attorney for any county in which the persons to whom the order is directed do business, or the attorney general upon request of the department, may bring an action on behalf of the state in the superior court for Thurston county or any county in which the persons to whom the order is directed do business to recover the amount specified in the final order of the department. The surety shall be liable to the state to the extent of the bond.

NEW SECTION. Sec. 8. A new section is added to chapter 75.28 RCW to read as follows:

The liabilities imposed upon a wholesale fish dealer by this chapter shall be in addition to the penalties authorized in chapter 75.10 RCW.

NEW SECTION. Sec. 9. Section 75.28.350, chapter 12, Laws of 1955, section 1, chapter 29, Laws of 1965 ex. sess., section 133, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.350 are each repealed.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 249

[Engrossed Substitute House Bill No. 815]

PUGET SOUND—PRETREATMENT OF INDUSTRIAL WASTEWATER— SEWAGE TREATMENT

AN ACT Relating to water quality; and adding new sections to chapter 90.48 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) In order to protect water quality, the department of ecology, in cooperation with the Puget Sound water quality

authority, shall review existing standards for pretreatment of industrial wastewater that is discharged into sewage treatment facilities that discharge into Puget Sound. Standards for treatment by industrial facilities that discharge directly into Puget Sound or into waters that flow into Puget Sound shall also be reviewed.

(2) The department of ecology shall report its progress to the legislature by January 1, 1986. The report shall address whether standards require revision to reflect all known, available, and reasonable methods of treatment. The department shall report its conclusions to the legislature by January 1, 1987.

NEW SECTION. Sec. 2. (1) The department of ecology shall work with local governments to develop reasonable plans and compliance schedules for the greatest reasonable reduction of combined sewer overflows. The plan shall address various options, including construction of storage tanks for sewage and separation of sewage and stormwater transport systems. The compliance schedule shall be designed to achieve the greatest reasonable reduction of combined sewer overflows at the earliest possible date. The plans and compliance schedules shall be completed by January 1, 1988. A compliance schedule will be a condition of any waste discharge permit issued or renewed after January 1, 1988.

(2) By September 1, 1987, the department of ecology shall report to the legislature any statutory changes necessary to implement the plans and compliance schedules described in subsection (1) of this section. The report shall include (a) a recommended date by which all sewage treatment facilities shall achieve the greatest reasonable reduction of combined sewer overflows, and (b) a comprehensive assessment of the total cost to achieve compliance, the projected need and recommended distribution of local, state, and federal funding, and the availability of local, state, and federal funding. A thorough discussion of the potential funding sources shall accompany the report.

NEW SECTION. Sec. 3. Plans for upgrading sewage treatment facilities and plans for new sewage treatment facilities shall address the greatest reasonable reduction of combined sewer overflows and implementation of pretreatment standards.

NEW SECTION. Sec. 4. The department of ecology shall collect administrative expenses from any person or entity requesting action of the department pertaining to the processing of applications for permits provided in RCW 90.48.160, 90.48.162, and 90.48.260. For the purposes of this section, "administrative expenses" shall mean the total actual costs incurred by the department in processing such permit applications.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act are each added to chapter 90.48 RCW.

Passed the House April 22, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 250

[Substitute Senate Bill No. 3387]

SEWER HOOKUP CHARGES

AN ACT Relating to sewer hookups; and amending RCW 56.08.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 210, Laws of 1941 as last amended by section 4, chapter 190, Laws of 1981 and RCW 56.08.010 are each amended to read as follows:

A sewer district may acquire by purchase or by condemnation and purchase all lands, property rights, water, and water rights, both within and without the district, necessary for its purposes. A sewer district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be needed where in the opinion of the board of sewer commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities of the third class, insofar as consistent with the provisions of this title, except that all assessments or reassessment rolls required to be filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer shall be imposed upon the county treasurer for the purposes hereof; it may construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district and inhabitants thereof with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, facilities for the drainage of storm or surface waters, public highways, streets, and roads with full authority to regulate the use and operation thereof and the service rates to be charged. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants, within or without the district, and may acquire by purchase or condemnation, properties or privileges necessary to be had to

protect any lakes, rivers, or watercourses and also other areas of land from pollution, from its sewers or its sewage treatment plant. A district may charge property owners seeking to connect to the district system of sewers, as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding ten years. The county treasurer may charge and collect a fee of three dollars per parcel for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. A district may compel all property owners within the sewer district located within an area served by the district system of sewers to connect their private drain and sewer systems with the district system under such penalty as the sewer commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served.

Passed the Senate March 7, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 251

[Substitute Senate Bill No. 3388]

ATTORNEY GENERAL—INVESTIGATIVE AND CRIMINAL PROSECUTION ACTIVITY

AN ACT Relating to the attorney general; adding new sections to chapter 43.10 RCW; repealing section 5, chapter 335, Laws of 1981 (uncodified); and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The attorney general shall annually report to the organized crime advisory board a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately by members of the board.

NEW SECTION. Sec. 2. Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a

criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamental issues affecting the public interest and the administration of criminal justice in this state.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 43.10 RCW.

NEW SECTION. Sec. 4. Section 5, chapter 335, Laws of 1981 (uncodified) is repealed.

NEW SECTION. Sec. 5. Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 12, 1985.

Passed the House April 24, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 252

[Senate Bill No. 3436]

STATE-WIDE BALLOT ITEMS—BALLOT TITLE

AN ACT Relating to elections; and amending RCW 29.27.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 29.27.060, chapter 9, Laws of 1965 as last amended by section 3, chapter 4, Laws of 1977 and RCW 29.27.060 are each amended to read as follows:

When a proposed constitution or constitutional amendment or other question is to be submitted to the people of the state for state-wide popular vote, the attorney general shall prepare a concise statement posed as a question and not exceeding twenty words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon.

Questions to be submitted to the people of a county or municipality shall also be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement posed as a question and not exceeding ~~((twenty words, or))~~ seventy-five words ~~((in the case of a school district tax proposition,))~~ containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon, which statement shall be prepared by the city attorney for the city, and by the prosecuting attorney for the county or any other political subdivision of the state, other than cities, situated in the county.

~~((Such))~~ The concise statement ~~((shall))~~ constitutes the ballot title. The secretary of state shall certify to the county auditors the ballot title for

a proposed constitution, constitutional amendment or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums.

Passed the Senate March 19, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 253

[Senate Bill No. 3445]

PARKS AND RECREATION SERVICE AREAS

AN ACT Relating to parks and recreation service areas; and amending RCW 36.68.400.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 218, Laws of 1963 as last amended by section 1, chapter 210, Laws of 1981 and RCW 36.68.400 are each amended to read as follows:

Any county shall have the power to create park and recreation service areas for the purpose of financing the acquisition, construction, improvement, maintenance or operation of ~~((neighborhood))~~ any park, senior citizen activities centers, zoos, aquariums, and recreational facilities as defined in RCW 36.69.010 which shall be owned or leased by the county and administered as other county parks or shall be owned or leased and administered by a city or town. ~~((The service areas created as hereinafter set forth may finance any of the following park purposes: (1) Acquisition or lease of park sites and buildings; (2) construction of improvements upon county park allocated lands or city or town park lands which will promote leisure time and recreational activities of residents on a neighborhood basis, including but not limited to the construction of field houses, swimming pools, tennis courts, playfields, and other facilities; (3) maintenance of any park or recreational facility owned or leased by a county, city, or town, including the purchase of))~~ A park and recreation service area may purchase athletic equipment and supplies ((and)), and provide for the upkeep of park buildings, grounds and facilities((, and (4) engaging)), and provide custodial, recreational and park program personnel at any park or recreational facility owned or leased by the service area or a county, city, or town. A park and recreation service area shall be a quasi-municipal corporation, an independent taxing "authority" within the meaning of section 1, Article 7 of the Constitution, and a "taxing district" within the meaning of section 2, Article 7 of the Constitution.

A park and recreation service area shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as

well as all other powers that may now or hereafter be specifically conferred by statute.

The county legislative authority shall be the governing body of any park and recreation service area which is created within the county: PROVIDED, That where a park and recreation service area includes an incorporated city or town within the county, the park and recreation service area may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The voters of a park and recreation service area shall be all registered voters residing within the service area.

A multicounty park and recreation service area shall be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW.

Passed the Senate April 23, 1985.

Passed the House April 17, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 254

[Senate Bill No. 3830]

STREET VACATIONS

AN ACT Relating to street vacations; and amending RCW 35.79.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 28, Laws of 1969 and RCW 35.79.030 are each amended to read as follows:

The hearing on such petition may be held before the legislative authority, or before a committee thereof upon the date fixed by resolution or at the time said hearing may be adjourned to. If the hearing is before such a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If such hearing be held before such a committee it shall not be necessary to hold a hearing on the petition before such legislative authority. If the legislative authority determines to grant said petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated, except in the event the subject property or portions thereof were acquired at public expense, compensation may be required in an amount equal to the full appraised value of the vacation: PROVIDED, That such ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the

vacated land for the construction, repair, and maintenance of public utilities and services: PROVIDED FURTHER, That no city or town shall be authorized or have authority to vacate such street, or alley, or any parts thereof if any portion thereof abuts on a body of salt or fresh water unless such vacation be sought to enable the city, town, port district or state to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational, or educational purposes, or other public uses. This proviso shall not apply to industrial zoned property. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located.

Passed the Senate March 16, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 255

[Senate Bill No. 3593]

MT. ST. HELENS—LOCAL GOVERNMENT REIMBURSEMENT

AN ACT Relating to previous reimbursements for costs related to the Mt. St. Helens eruption; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature recognizes the financial plight of communities that received state assistance in the aftermath of the Mt. St. Helens disaster and were subsequently found to have used portions of the state funds for costs directly resulting from the disaster, but not considered eligible for reimbursement under the Federal Emergency Management Agency (FEMA) guidelines. The legislature therefore declares that all units of local government that originally received state grants under section 8, chapter 5, Laws of 1981 shall be reimbursed not more than one hundred percent of the actual costs incurred by the local government prior to December 31, 1983, that are directly attributable to the eruption of Mt. St. Helens except that no jurisdiction may receive recovery assistance funds in addition to those previously forwarded in accordance with section 8, chapter 5, Laws of 1981.

NEW SECTION. Sec. 2. Costs of a state auditor's division of municipal corporations' examination, when necessary to establish compliance with this act, shall be borne by the unit of local government being audited.

NEW SECTION. Sec. 3. Any funds returned to the state of Washington pursuant to this act shall be placed in the general fund.

NEW SECTION. Sec. 4. No appropriation is necessary to carry out the purposes of this act.

Passed the Senate March 11, 1985.

Passed the House April 11, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 256

[Substitute Senate Bill No. 4041]

STATE OYSTER RESERVES

AN ACT Relating to state oyster reserves; amending RCW 75.24.060; and adding a new section to chapter 75.24 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75.24.060, chapter 12, Laws of 1955 as last amended by section 81, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.24.060 are each amended to read as follows:

It is the policy of the state to improve state oyster reserves so that they are productive and yield a revenue sufficient for their maintenance. In fixing the price of oysters and other shellfish sold from the reserves, the director shall take into consideration this policy. It is also the policy of the state to maintain the oyster reserves to furnish shellfish to growers and processors and to stock public beaches.

Shellfish may be harvested from state oyster reserves for personal use as prescribed by rule of the director.

The department shall periodically inventory the state oyster reserves and assign the reserve lands into management categories:

(1) Native Olympia oyster broodstock reserves;

(2) Commercial shellfish harvesting zones;

(3) Commercial shellfish propagation zones designated for long-term leasing to private aquaculturists;

(4) Public recreational shellfish harvesting zones;

(5) Unproductive land.

The department shall manage each category of oyster reserve land to maximize the sustained yield production of shellfish consistent with the purpose for establishment of each management category.

The department shall develop an oyster reserve management plan, to include recommendations for leasing reserve lands, in coordination with the shellfish industry, by January 1, 1986. The report shall be presented to the house and senate committees on natural resources.

The director shall protect, reseed, improve the habitat of, and replant state oyster reserves and issue cultch permits.

NEW SECTION. Sec. 2. A new section is added to chapter 75.24 RCW to read as follows:

The legislature finds that current environmental and economic conditions warrant a renewal of the state's historical practice of actively cultivating and managing its oyster reserves in Puget Sound to produce the state's native oyster, the Olympia oyster. The department of fisheries shall reestablish dike cultivated production of Olympia oysters on such reserves on a trial basis as a tool for planning more comprehensive cultivation by the state.

Passed the Senate April 23, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 257

[Engrossed Substitute Senate Bill No. 4059]

JUVENILES—CONTEMPT ORDERS—RESTITUTION—PAROLE FUNCTIONS OF COUNTY—CUSTODY AND PLACEMENT IN A CRISIS RESIDENTIAL CENTER

AN ACT Relating to juveniles; amending RCW 13.40.190, 13.40.210, 13.04.450, 13.32A.030, 13.32A.050, 13.32A.060, 13.32A.130, 13.32A.140, 13.32A.170, and 74.13.036; adding a new section to chapter 13.34 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 13.34 RCW to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is punishable as contempt.

(2) Contempt under this section is punishable by confinement for up to seven days.

(3) A child found in contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) The procedure in a contempt proceeding under this section is governed by RCW 7.20.040 through 7.20.080.

(5) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

Sec. 2. Section 73, chapter 291, Laws of 1977 ex. sess. as last amended by section 9, chapter 191, Laws of 1983 and RCW 13.40.190 are each amended to read as follows:

(1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be

ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution. In cases where an offender has been committed to the department for a period of confinement exceeding fifteen weeks, restitution may be waived.

(2) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(3) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

NEW SECTION. Sec. 3. To promote both public safety and the welfare of juvenile offenders, it is the intent of the legislature that services to juvenile offenders be delivered in the most effective and efficient means possible. Section 4 of this act facilitates those objectives by permitting counties to supervise parole of juvenile offenders. This is consistent with the philosophy of chapter 13.06 RCW to deliver community services to juvenile offenders comprehensively at the county level.

Sec. 4. Section 75, chapter 291, Laws of 1977 ex. sess. as last amended by section 11, chapter 191, Laws of 1983 and RCW 13.40.210 are each amended to read as follows:

(1) The secretary shall, except in the case of a juvenile committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the juvenile was found to be guilty established pursuant to RCW 13.40.030, as now or hereafter amended, set a release or discharge date for each juvenile committed to its custody which shall be within the prescribed range to which a juvenile has been committed. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter: **PROVIDED**, That days spent in the custody of the department shall be tolled by any period of time during which a juvenile

has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may, until June 30, 1985, recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary may have temporary authority until June 30, 1985, to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release. In no event shall a serious offender, as defined in RCW 13.40.020(1) be granted release under the provisions of this subsection.

(3) Following the juvenile's release pursuant to subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months. Such a parole program shall be mandatory for offenders released under subsection (2) of this section. The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal may require the juvenile to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address; and (e) refrain from committing new offenses. After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (a) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision authorized by this chapter; and (d) imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day

or for a certain number of days each week with the balance of the days or weeks spent under supervision.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest such person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

Sec. 5. Section 20, chapter 299, Laws of 1981 and RCW 13.04.450 are each amended to read as follows:

The provisions of chapters 13.04 and 13.40 RCW, as now or hereafter amended, shall be the exclusive authority for the adjudication and disposition of juvenile offenders except where otherwise expressly provided. Chapter 10.22 RCW does not apply to juvenile offender proceedings, including diversion, under chapter 13.40 RCW.

Sec. 6. Section 17, chapter 155, Laws of 1979 and RCW 13.32A.030 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Department" means the department of social and health services;
 (2) "Child," "juvenile," and "youth" mean any individual who is under the chronological age of eighteen years;

(3) "Parent" means the legal custodian(s) or guardian(s) of a child;

(4) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away; PROVIDED, That such facility shall not be a secure institution or facility as defined by the federal juvenile justice and delinquency prevention act of 1974 (P.L. 93-415; 42 U.S.C. Sec. 5634 et seq.) and regulations and clarifying instructions promulgated thereunder. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center. The facility administrator shall notify a parent and the appropriate law enforcement agency within four hours of all unauthorized leaves.

Sec. 7. Section 19, chapter 155, Laws of 1979 as amended by section 2, chapter 298, Laws of 1981 and RCW 13.32A.050 are each amended to read as follows:

A law enforcement officer shall take a child into custody:

(1) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(2) If a law enforcement officer reasonably believes that a child is in circumstances which constitute a danger to the child's physical safety; or

(3) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(4) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A RCW.

Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.

An officer who takes a child into custody under this section and places the child in a designated crisis residential center shall inform the department of such placement within twenty-four hours.

Sec. 8. Section 20, chapter 155, Laws of 1979 as amended by section 3, chapter 298, Laws of 1981 and RCW 13.32A.060 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 13.32A.050 (1) or (2) shall inform the child of the reason for such custody and shall either:

(a) Transport the child to his or her home. The officer releasing a child into the custody of the parent shall inform the parent of the reason for the taking of the child into custody and ~~((may))~~ shall inform the child and the parent of the nature and location of appropriate services available in their community; or

(b) Take the child to a designated crisis residential center or the home of a responsible adult:

(i) If the child evinces fear or distress at the prospect of being returned to his or her home; or

(ii) If the officer believes there is a possibility that the child is experiencing in the home some type of child abuse or neglect, as defined in RCW 26.44.020, as now law or hereafter amended; or

(iii) If it is not practical to transport the child to his or her home; or

(iv) If there is no parent available to accept custody of the child.

The officer releasing a child into the custody of a responsible adult shall inform the child and the responsible adult of the nature and location of appropriate services available in the community.

(2) An officer taking a child into custody under RCW 13.32A.050 (3) or (4) shall inform the child of the reason for custody, and shall take the

child to a designated crisis residential center licensed by the department and established pursuant to chapter 74.13 RCW. However, an officer taking a child into custody under RCW 13.32A.050(4) may place the child in a juvenile detention facility as provided in RCW 13.32A.065. The department shall ensure that all the enforcement authorities are informed on a regular basis as to the location of the designated crisis residential center or centers in their judicial district, where children taken into custody under RCW 13.32A.050 may be taken.

Sec. 9. Section 27, chapter 155, Laws of 1979 as amended by section 9, chapter 298, Laws of 1981 and RCW 13.32A.130 are each amended to read as follows:

A child admitted to a crisis residential center under this chapter who is not returned to the home of his or her parent or who is not placed in an alternative residential placement under an agreement between the parent and child, shall, except as provided for by RCW 13.32A.140 and 13.32A.160(2), reside in such placement under the rules and regulations established for the center for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays, from the time of intake, except as otherwise provided by this chapter. Crisis residential center staff shall make a concerted effort to achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours, excluding Saturdays, Sundays and holidays, from the time of intake, and if the person in charge of the center does not consider it likely that reconciliation will be achieved within the seventy-two hour period, then the person in charge shall inform the parent and child of (1) the availability of counseling services; (2) the right to file a petition for an alternative residential placement and to obtain assistance in filing the petition; and (3) the right to request a review of such a placement: **PROVIDED**, That at no time shall information regarding a parent's or child's rights be withheld if requested: **PROVIDED FURTHER**, That the department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating such services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of such statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of such statement.

Sec. 10. Section 31, chapter 155, Laws of 1979 as last amended by section 1, chapter 188, Laws of 1984 and RCW 13.32A.170 are each amended to read as follows:

(1) The court shall hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the

right to place reasonable rules and restrictions upon their children. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel. The court may approve an order stating that the child shall be placed in a residence other than the home of his or her parent only if it is established by a preponderance of the evidence that:

- (a) The petition is not capricious;
- (b) The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict;
- (c) The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home; and
- (d) Reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home.

The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

(2) The order approving out-of-home placement shall direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict. Such plan shall delineate any conditions or limitations on parental involvement. In making the order, the court shall further direct the department to make recommendations, as to which agency or person should have physical custody of the child, as to which parental powers should be awarded to such agency or person, and as to parental visitation rights. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

(3) The hearing to consider the recommendations of the department for a three-month disposition plan shall be set no later than fourteen days after the approval of the court of a petition to approve alternative residential placement. Each party shall be notified of the time and place of such disposition hearing.

(4) If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons shall be filed. If the court denies a petition requesting that a child be placed in a residence other than the home of his or her parent, the court shall enter an order requiring the child to remain at or return to the home of his or her parent.

(5) If the court denies the petition, the court shall impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services.

(6) A child who fails to comply with a court order directing that the child remain at or return to the home of his or her parent shall be subject to

contempt proceedings, as provided in this chapter, but only if the noncompliance occurs within ninety calendar days after the day of the order.

Sec. 11. Section 82, chapter 155, Laws of 1979 as amended by section 18, chapter 298, Laws of 1981 and RCW 74.13.036 are each amended to read as follows:

(1) The department of social and health services shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and child care systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that chapters 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state. ((The department shall make reports at least quarterly to the governor and to the legislature regarding implementation of the chapters cited in this section and shall report any violations and misunderstandings regarding the implementation thereof.))

(2) The department shall, by January 1, 1986, develop a plan and procedures, in cooperation with the state-wide advisory committee, to insure the full implementation of the provisions of chapter 13.32A RCW. Such plan and procedures shall include but are not limited to:

(a) Procedures defining and delineating the role of the department and juvenile court with regard to the execution of the alternative residential placement process;

(b) Procedures for designating department staff responsible for family reconciliation services;

(c) Procedures assuring enforcement of contempt proceedings in accordance with RCW 13.32A.170 and 13.32A.250; and

(d) Procedures for the continued education of all individuals in the criminal juvenile justice and child care systems who are affected by chapter 13.32A RCW, as well as members of the legislative and executive branches of government.

The plan and procedures required under this subsection shall be submitted to the appropriate standing committees of the legislature by January 1, 1986.

There shall be uniform application of the procedures developed by the department and juvenile court personnel, to the extent practicable. Local and regional differences shall be taken into consideration in the development of procedures required under this subsection.

(3) In addition to its other oversight duties, the department shall:

(a) Identify and evaluate resource needs in each region of the state;

(b) Disseminate information collected as part of the oversight process to affected groups and the general public;

(c) Educate affected entities within the juvenile justice and child care systems, local government, and the legislative branch regarding the implementation of chapters 13.32A and 13.34 RCW;

(d) Review complaints concerning the services, policies, and procedures of those entities charged with implementing chapters 13.32A and 13.34 RCW; and

(e) Report any violations and misunderstandings regarding the implementation of chapters 13.32A and 13.34 RCW.

(4) The secretary shall develop procedures in accordance with chapter 34.04 RCW for addressing violations and misunderstandings concerning the implementation of chapters 13.32A and 13.34 RCW.

(5) The secretary shall submit a quarterly report to the appropriate standing committee of the house of representatives and the senate of the state of Washington and to appropriate local government entities.

(6) Where appropriate, the department shall request opinions from the attorney general regarding correct construction of these laws.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 19, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 258

[House Bill No. 853]

VESSELS AND WATERCRAFT—TITLE CERTIFICATES

AN ACT Relating to the issuance of title certificates of ownership and the perfection of security interests in vessels and watercraft; amending RCW 62A.9-302 and 88.02.070; adding new sections to chapter 88.02 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intention of the legislature to establish a system of certificates of title for vessels and watercraft similar to that in existence for motor vehicles. It is the goal of this legislation that the title certificate become prima facie evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and that security interest in vessels be perfected solely by notation of a secured party upon the title certificate. However, there are title certificates issued prior to the effective date of this act which may not indicate security interests in the certificated vessel. The establishment of a more reliable system will require

implementation over several years, as the existing security interests are either satisfied or their perfection is not continued. During this interim period of five years from the effective date of this act, two different classes, class A and class B, of title certificates will be in existence and issued by the department of licensing. The establishment and operation of the system for watercraft and vessels should be patterned upon the system established and operating for motor vehicles and the department of licensing is hereby authorized and directed to adopt the regulations and procedures necessary and desirable to establish such a similar system, excepting only as the same may be inconsistent with this chapter.

NEW SECTION. Sec. 2. All titles issued prior to the effective date of this act are designated class B title certificates. Class B certificates evidence ownership of vessels but the vessel is more likely to be subject to a valid and perfected security interest or other claims of interest than class A certificated vessels.

Sec. 3. Section 9-302, chapter 157, Laws of 1965 ex. sess. as last amended by section 16, chapter 41, Laws of 1981 and RCW 62A.9-302 are each amended to read as follows:

(1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under RCW 62A.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under RCW 62A.9-304 or in proceeds for a ten day period under RCW 62A.9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered and other property subject to subsection (3) of this section; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in RCW 62A.9-313;

(e) a security interest of a collecting bank (RCW 62A.4-208) or arising under the Article on Sales (RCW 62A.9-113) or covered in subsection (3) of this section;

(f) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this Article is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this Article for filing of the security interest; or

(b) the following statute of this state: RCW 46.12.095 or 88.02.070; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of RCW 62A.9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in RCW 62A.9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this Article.

(5) Part 4 of this Article does not apply to a security interest in property of any description created by a deed of trust or mortgage made by any corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipe line, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under this Article by filing such deed of trust or mortgage with the department of licensing. When so filed, such instrument shall remain effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments may also be filed with the department of licensing. The director of licensing shall be a filing officer for the foregoing purposes, and the uniform fee for filing, indexing, and furnishing filing data pursuant to this subsection shall be five dollars.

Sec. 4. Section 46, chapter 3, Laws of 1983 2nd ex. sess. and RCW 88.02.070 are each amended to read as follows:

(1) The department shall provide for the issuance of vessel certificates of title. Applications for certificates may be made through the agents appointed under RCW 88.02.040. The fee for a vessel certificate of title is five dollars. Fees for vessel certificates of title shall be deposited in the general fund. Security interests in vessels subject to the requirements of this chapter and attaching after July 1, 1983, shall be perfected only by indication upon the vessel's title certificate. The provisions of chapters 46.12 and 46.16 RCW relating to motor vehicle certificates of registration, titles, certificate issuance, ownership transfer, and perfection of security interests, and other

provisions which may be applied to vessels subject to this chapter, may be so applied by rule of the department if they are not inconsistent with this chapter.

(2) Whenever a vessel is to be registered for the first time as required by this chapter, except for a vessel having a valid marine document as a vessel of the United States, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this chapter, except for a vessel having a valid marine document as a vessel of the United States, shall within fifteen days thereof apply for a new certificate of title which shows the vessel's change of ownership.

(3) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. No new security interest or renewal or extension of an existing security interest is affected except as provided under the terms of this chapter and RCW 46.12.095.

(4) Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within fifteen days of the occurrence of any of the following: Transfer of any part or all of the ownership of a vessel registered under this chapter; any change of address of owner; destruction, loss, abandonment, theft, or recovery of the vessel; or loss or destruction of a valid certificate of registration on the vessel.

NEW SECTION. Sec. 5. Class A and class B certificates shall be readily distinguishable from each other, through different color, format, or other apparent distinctions. Each class B certificate issued after the effective date of this act shall bear the legend: "The vessel may be subject to perfected security interests or claims not indicated on this certificate."

NEW SECTION. Sec. 6. Each application for a title certificate shall require the person to be designated as the registered owner to swear under penalty of the perjury laws of this state that he is the owner or an authorized agent of the owner of the vessel, and that it is free of any claim of lien, mortgage, conditional sale, or other security interest of any person except the person or persons set forth in the application as secured parties.

NEW SECTION. Sec. 7. After the effective date of this act a class A certificate shall be issued in the following circumstances:

(1) Upon application for a certificate of title to a new vessel never before titled and sold by an in-state or out-of-state dealer or manufacturer. The application must be accompanied by a manufacturer's statement of origin or other document or documents certifying the first conveyance of said vessel after its manufacture. The manufacturer's statement of origin or other similar document or documents shall reflect the model year, make, and hull identification number of the vessel.

(2) Upon transfer of a vessel or release of a security interest in a vessel for which a class A certificate of title has previously been issued if the department receives appropriate releases of interests.

(3) Commencing five years after the effective date of this act, in all cases.

NEW SECTION. Sec. 8. After the effective date of this act a class A title certificate may be issued upon application by an owner, purchaser, or secured party who presents evidence satisfactory to the department of ownership of the vessel in the registered owner's name and the absence of security interests or claims except as will be shown on the new title certificate. The absence of outstanding security interests may be evidenced by appropriate Uniform Commercial Code financing statement searches by the appropriate filing officer or officers pursuant to RCW 62A.9-407(2) and releases or disclaimers of interest by any secured parties who might have security interests perfected by filing of Uniform Commercial Code financing statement.

NEW SECTION. Sec. 9. A class A certificate of title shall not be issued for any vessel for which a class B certificate has been issued unless the class B certificate is surrendered together with appropriate releases of interest by parties shown on such certificate.

NEW SECTION. Sec. 10. The department is hereby authorized to require inspection of vessels which are brought into this state from another state and for which no title certificate has been issued and for any other vessel if the department determines that inspection of the vessel will help to verify the accuracy of the information set forth on the application.

NEW SECTION. Sec. 11. No suit or action shall ever be commenced or prosecuted against the department of licensing or the state of Washington by reason of any act done or omitted to be done in the administration of the duties and responsibilities imposed upon the department under chapter 88.02 RCW.

***NEW SECTION.** Sec. 12. *Sections 1 and 2 and 5 through 11 of this act are each added to chapter 82.02 RCW.*

*Sec. 12 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the House March 21, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 10, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one section, House Bill No. 853, entitled:

"AN ACT Relating to the issuance of title certificates of ownership and the protection of security interests in vessels and watercraft."

Section 12 of the bill directs that Sections 1, 2, and 5 through 11 must be added to Chapter 82.02 RCW, general provisions relating to excise taxes. This directive is not correct. Those sections should be added to Chapter 88.02 RCW, the chapter relating to watercraft registration.

With the exception of Section 12, House Bill No. 853 is approved."

CHAPTER 259

[Engrossed Substitute House Bill No. 932]
CHILD ABUSE REPORTING

AN ACT Relating to child abuse; amending RCW 26.44.030; adding new sections to chapter 26.44 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available.

Sec. 2. Section 3, chapter 13, Laws of 1965 as last amended by section 3, chapter 97, Laws of 1984 and RCW 26.44.030 are each amended to read as follows:

(1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than ~~((seven days))~~ forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

(2) Any other person who has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040 (~~as now or hereafter amended~~)).

(3) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse, shall report such incident in writing to the proper law enforcement agency.

(4) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime (~~has~~) may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them.

(5) Any county prosecutor or city attorney receiving a report under subsection (4) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW to read as follows:

If the department or a law enforcement agency responds to a complaint of child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency. Records kept under this section shall be identifiable by means of an agency code for child abuse.

NEW SECTION. Sec. 4. A new section is added to chapter 26.44 RCW to read as follows:

Commencing in 1986, the prosecuting attorney shall include in the annual report a section stating the number of child abuse reports received by

the office under this chapter and the number of cases where charges were filed.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 260

[Substitute House Bill No. 36]

HOSTAGE OR BARRICADE SITUATIONS—TELEPHONE COMMUNICATIONS—RECORDING OR ISOLATING

AN ACT Relating to isolating and recording telephone communications in emergency situations; and amending RCW 70.85.100 and 9.73.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 28, Laws of 1979 and RCW 70.85.100 are each amended to read as follows:

(1) The supervising law enforcement official having jurisdiction in a geographical area who reasonably believes that ((one or more hostages are being held)) a person is barricaded, or one or more persons are holding another person or persons hostage within that area ((and who has probable cause to believe that the holder of such hostages is committing a crime)) may order a telephone company employee designated pursuant to RCW 70.85.110 to arrange to cut, reroute, or divert telephone lines for the purpose of preventing telephone communications between the barricaded person or hostage holder and any person other than a peace officer or a person authorized by the peace officer.

(2) As used in this section:

(a) A "hostage holder" is one who commits or attempts to commit any of the offenses described in RCW 9A.40.020, 9A.40.030, or 9A.40.040; and

(b) A "barricaded person" is one who establishes a perimeter around an area from which others are excluded and either:

(i) Is committing or is immediately fleeing from the commission of a violent felony; or

(ii) Is threatening or has immediately prior threatened a violent felony or suicide; or

(iii) Is creating or has created the likelihood of serious harm within the meaning of chapter 71.05 RCW relating to mental illness.

Sec. 2. Section 1, chapter 93, Laws of 1967 ex. sess. as amended by section 1, chapter 363, Laws of 1977 ex. sess. and RCW 9.73.030 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of

Washington, its agencies, and political subdivisions to intercept, or record any:

(a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication;

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(2) Notwithstanding the provisions of subsection (1) of this section, wire communications or conversations (a) of an emergency nature, such as the reporting of a fire, crime, or other disaster, or (b) which convey threats of extortion, blackmail, bodily harm, or other unlawful requests or demands, or (c) which occur anonymously or repeatedly or at an extremely inconvenient hour, or (d) which relate to communications by a hostage holder or barricaded person as defined in RCW 70.85.100, whether or not conversation ensues, may be recorded with the consent of one party to the conversation.

(3) Where consent by all parties is needed pursuant to this chapter, consent shall be considered obtained whenever one party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is about to be recorded or transmitted: PROVIDED, That if the conversation is to be recorded that said announcement shall also be recorded.

(4) An employee of any regularly published newspaper, magazine, wire service, radio station, or television station acting in the course of bona fide news gathering duties on a full time or contractual or part time basis, shall be deemed to have consent to record and divulge communications or conversations otherwise prohibited by this chapter if the consent is expressly given or if the recording or transmitting device is readily apparent or obvious to the speakers. Withdrawal of the consent after the communication has been made shall not prohibit any such employee of a newspaper, magazine, wire service, or radio or television station from divulging the communication or conversation.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 261

[Substitute House Bill No. 546]
AGRICULTURAL COMMODITIES

AN ACT Relating to commodity commissions; amending RCW 15.65.020, 15.65.070, 15.65.120, 15.65.140, 15.65.150, 15.65.160, 15.65.190, 15.65.200, 15.65.250, 15.65.260, 15.65.280, 15.65.350, 15.65.390, 15.65.410, 15.65.440, 15.65.630, 15.44.010, 15.44.080, 15.44.130, and 15.66.140; repealing RCW 16.67.124; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 256, Laws of 1961 as amended by section 2, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.65.020 are each amended to read as follows:

The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative. The phrase "director or his designee" means the director unless, in the provisions of any marketing agreement or order, he has designated an administrator, board or other designee to act for him in the matter designated, in which case "director or his designee" means for such order or agreement the administrator, board or other person(s) so designated and not the director.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Marketing agreement" means an agreement entered into and issued by the director pursuant to this chapter.

(5) "Agricultural commodity" means any animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, either in its natural or processed state, including bees and honey but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or sub-types should be classed together as an agricultural commodity for the purposes of this chapter.

(6) "Production area" and "marketing area" means any area defined as such in any marketing order or agreement in accordance with RCW 15.65.350. "Affected area" means the marketing or production area so defined in such order, agreement or proposal.

(7) "Unit" of an agricultural commodity means a unit of volume, weight, quantity, or other measure in which such commodity is commonly measured. The director shall designate in each marketing order and agreement the unit to be used therein.

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity

specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is stored in frozen condition or sold or marketed or delivered for sale or marketing within such marketing area: PROVIDED, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

(9) "Affected commodity" means that part or portion of any agricultural commodity which is covered by or forms the subject matter of any marketing agreement or order or proposal, and includes all affected units thereof as herein defined and no others.

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer of an affected commodity. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(11) "Handler" means any person who acts, either as principal, agent or otherwise, in processing, selling, marketing or distributing an agricultural commodity or storage of a frozen agricultural commodity which was not produced by him. "Handler" does not mean a common carrier used to transport an agricultural commodity. "Affected handler" means any handler of an affected commodity. "To handle" means to act as a handler.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he produces, and a handler with respect to the agricultural commodities which he handles, including those produced by himself.

(13) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of congress of the United States of February 18, 1922 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(14) "Member of a cooperative association" means any producer who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is a party to a marketing agreement with such cooperative association with respect to such product.

(15) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer or cooperative association of producers in preparing for market and marketing, and shall include: (a) selling any agricultural commodity produced by such producer(s) to any handler; (b) delivering any such commodity or otherwise disposing of it for commercial purposes to or through any handler.

(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his discretion: (a) determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he finds to be similarly situated.

(17) "Commodity board" means any board established pursuant to RCW 15.65.220. "Board" means any such commodity board unless a different board is expressly specified.

(18) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(19) "Section" means a section of this chapter unless some other statute is specifically mentioned. The present includes the past and future tenses, and the past or future the present. The masculine gender includes the feminine and neuter. The singular number includes the plural and the plural includes the singular.

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected commodity in a form which the director finds meets the requirements of this chapter.

(21) "Person" as used in this chapter shall mean any person, firm, association or corporation.

Sec. 2. Section 7, chapter 256, Laws of 1961 as amended by section 4, chapter 154, Laws of 1979 and RCW 15.65.070 are each amended to read as follows:

The director shall publish notice of any hearing called for the purpose of considering and acting upon any proposal for a period of not less than

two days in a newspaper of general circulation in Olympia and such other newspapers as the director may prescribe. No such public hearing shall be held prior to five days after the last day of such period of publication. Such notice shall set forth the date, time and place of said hearing, the agricultural commodity and the area covered by such proposal; a concise statement of the proposal; a concise statement of each additional subject upon which the director will hear evidence and make a determination, and a statement that, and the address where, copies of the proposal may be obtained. The director shall also mail a copy of such notice to all producers and handlers within the affected area who may be directly affected by such proposal and whose names and addresses appear, on the day next preceding the day on which such notice is published, upon lists of such persons then on file in the department.

Sec. 3. Section 12, chapter 256, Laws of 1961 and RCW 15.65.120 are each amended to read as follows:

The recommended decision shall contain the text in full of any recommended agreement, order, amendment or termination, and may deny or approve the proposal in its entirety, or it may recommend a marketing agreement, order, amendment or termination containing other or different terms or conditions from those contained in the proposal: PROVIDED, That the same shall be of a kind or type substantially within the purview of the notice of hearing and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice. The final decision shall set out in full the text of the agreement, order, amendment or termination covered thereby, and the director shall issue and deliver or mail copies of said final decision to all producers and handlers within the affected area who may be directly affected by such final decision and whose names and addresses appear, on the day next preceding the day on which such final decision is issued, upon the lists of such persons then on file in the department, and to all parties of record appearing at the hearing, or their attorneys of record. If the final decision denies the proposal in its entirety no further action shall be taken by the director.

Sec. 4. Section 14, chapter 256, Laws of 1961 as amended by section 3, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.65.140 are each amended to read as follows:

No marketing order or amendment thereto directly affecting producers or producer marketing shall be issued unless the director determines (in accordance with any of the procedures described at RCW 15.65.160) that the issuance of such order or amendment is assented to or favored by producers within the affected area who during a representative period determined by the director constituted either (1) at least sixty-five percent by numbers and at least fifty-one percent by volume of production of the producers who have been engaged within the area of production specified in such marketing order in the production for market of the commodity specified therein,

or who during such representative period have been engaged in the production of such commodity for marketing in the marketing area specified in such marketing order, or (2) at least fifty-one percent by numbers and at least sixty-five percent by volume of production of such producers: PROVIDED, That producers shall be deemed to have assented to or approved a proposed amendment order if sixty percent or more by number and sixty percent or more by volume of those replying assent or approve the proposed order in a referendum.

Sec. 5. Section 15, chapter 256, Laws of 1961 and RCW 15.65.150 are each amended to read as follows:

Any marketing order or amendment thereto directly ((affecting)) assessing handlers shall be issued either (1) when the director determines that the issuance of such order or amendment is assented to or favored by handlers who during a representative period determined by the director constituted at least fifty-one percent by numbers or fifty-one percent by volume handled of the handlers who have been engaged in the handling of the commodity specified in such marketing order produced in such production area or marketed in such marketing area, as the case may be, or (2) when upon the basis of findings on a duly noticed hearing held in the manner herein provided, the director determines:

(a) That the issuance of such order or amendment will not result in unequal cost of product or availability of supplies, or cause competitive disadvantage of other respects as between handlers;

(b) That the issuance of such order or amendment is the only practical means of advancing the interest of producers of such commodity pursuant to the declared policy of this chapter and that failure to issue such order or amendment would tend to prevent effectuation of the declared policies of this chapter;

(c) That the issuance of such order is assented to or favored by producers who during a representative period determined by the director constituted at least seventy-five percent by numbers or at least sixty-five percent by volume of production of the producers who have been engaged within the production area specified in such marketing order in the production for market of the commodity specified therein, or who during such representative period have been engaged in the production of such commodity for sale in the marketing area specified in such order.

Sec. 6. Section 16, chapter 256, Laws of 1961 as amended by section 4, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.65.160 are each amended to read as follows:

After publication of his final decision, the director shall ascertain (either by written agreement in accordance with subdivision (1) of this section or by referendum in accordance with subdivision (2) of this section) whether the above specified percentages of producers and/or handlers assent to or

approve any proposed order, amendment or termination, and for such purpose:

(1) The director may ascertain whether assent or approval by the percentages specified in RCW 15.65.140, 15.65.150 or 15.65.190 (whichever is applicable) have been complied with by written agreement, and the requirements of assent or approval shall, in such case, be held to be complied with, if of the total number of affected producers or affected handlers within the affected area and the total volume of production of the affected commodity or product thereof, the percentages evidencing assent or approval are equal to or in excess of the percentages specified in said sections; or

(2) The director may conduct a referendum among producers within the affected area and the requirements of assent or approval shall be held to be complied with if of the total number of such producers and the total volume of production represented in such referendum the percentage assenting to or favoring is equal to or in excess of the percentage specified in RCW 15.65.140, 15.65.150 or 15.65.190 (whichever is applicable) as now or hereafter amended: PROVIDED, That thirty percent of the affected producers within the affected area producing thirty percent by volume of the affected commodity have been represented in a referendum to determine assent or approval of the issuance of a marketing order: PROVIDED FURTHER, That a marketing order shall not become effective when the provisions of subdivision (3) of this section are used unless sixty-five percent by number of the affected producers within the affected area producing fifty-one percent by volume of the affected commodity or fifty-one percent by number of ~~((the))~~ such affected producers producing sixty-five percent by volume of the affected commodity approve such marketing order;

(3) The director shall consider the assent or dissent or the approval or disapproval of any cooperative marketing association authorized by its producer members either by a majority vote of those voting thereon or by its articles of incorporation or by its bylaws or by any marketing or other agreement to market the affected commodity for such members or to act for them in any such referendum as being the assent or dissent or the approval or disapproval of the producers who are members of or stockholders in or under contract with such cooperative association of producers: PROVIDED, That the association shall first determine that a majority of its affected producers authorizes its action concerning the specific marketing order.

Sec. 7. Section 19, chapter 256, Laws of 1961 and RCW 15.65.190 are each amended to read as follows:

Any marketing agreement or order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers within the affected area favor or assent to such termination. The director may ascertain without compliance with the provisions of RCW 15.65.050 through 15.65.130 whether such termination is so assented to or favored whenever twenty percent by numbers or

twenty percent by volume of production of said producers file written application with him for such termination. No such termination shall become effective until the expiration of the marketing season then current.

Sec. 8. Section 20, chapter 256, Laws of 1961 and RCW 15.65.200 are each amended to read as follows:

Whenever application is made for the issuance of a marketing agreement or order or the director otherwise determines to hold a hearing for the purpose of such issuance, the director or his designee shall cause lists to be prepared from any information which he has at hand or which he may obtain from producers, associations of producers and handlers of the affected commodity. Such lists shall contain the names and addresses of persons who produce the affected commodity within the affected area, the amount of such commodity produced by each such person during the period which the director determines for the purposes of the agreement or order to be representative, and the name of any cooperative association authorized to market for him within the affected area the commodity specified in the marketing agreement or order. Such lists shall also contain the names and addresses of persons who handle the affected commodity within the affected area and the amount of such commodity handled by each person during the period which the director determines for the purposes of the agreement or order to be representative. Any qualified person may at any time have his name placed upon any list for which he qualifies by delivering or mailing his name, address and other information to the director and in such case the director shall verify such person's qualifications and if he qualifies, place his name upon such list. At every hearing upon the issuance, amendment or termination of such order or agreement the director or his designee shall take evidence for the purpose of making such lists complete and accurate and he may employ his powers of subpoena of witnesses and of books, records and documents for such purpose. After every such hearing the director shall compile, complete, correct and bring lists up to date in accordance with the evidence and information obtained at such hearing. For all purposes of giving notice, holding referenda and electing members of commodity boards, the lists on hand corrected up to the day next preceding the date for issuing notices or ballots as the case may be shall, for all purposes of this chapter, be deemed to be the list of all persons entitled to notice or to assent or dissent or to vote.

Sec. 9. Section 25, chapter 256, Laws of 1961 as amended by section 5, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.65.250 are each amended to read as follows:

For the purpose of nominating candidates to be voted upon for election to such board memberships, the director shall call separate meetings of the affected producers and handlers within the affected area and in case elections shall be by districts he shall call separate meetings for each district. However, at the inception any marketing agreement or order nominations

may be at the issuance hearing. Nomination meetings shall be called annually and at least thirty days in advance of the date set for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers and/or handlers according to the list thereof maintained by the director pursuant to RCW 15.65.200. However, if the agreement or order provides for election by districts such written notice need be given only to the producers or handlers residing in or whose principal place of business is within such district. Nonreceipt of notice by any interested person shall not invalidate proceedings at such meetings. Any qualified person may be nominated orally for membership upon such board at the said meetings. Nominations may also be made within five days after any such meeting by written petition filed with the director signed by not less than five producers or handlers, as the case may be, entitled to have participated in said meeting.

When only one nominee is nominated for any position on the board the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

Sec. 10. Section 26, chapter 256, Laws of 1961 and RCW 15.65.260 are each amended to read as follows:

The members of every such board shall be elected by secret mail ballot under the supervision of the director. Producer members of such board shall be elected by a majority of the votes cast by the affected producers within the affected area, but if the marketing order or agreement provides for districts such producer members of the board shall be elected by a majority of the votes cast by the affected producers in the respective districts. Each affected producer within the affected area shall be entitled to one vote. Handler members of the board shall be elected by a majority of the votes cast by the affected handlers within the affected area, but if the marketing order or agreement provides for districts such handler members of the board shall be elected by a majority of the votes cast by the affected handlers in the respective districts. Each affected handler within the affected area shall be entitled to one vote.

If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each producer and handler entitled to vote whose name appears upon the list thereof compiled and

maintained by the director in accordance with RCW 15.65.200. Any other producer or handler entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election of any board member.

Sec. 11. Section 28, chapter 256, Laws of 1961 and RCW 15.65.280 are each amended to read as follows:

The powers and duties of the board shall be:

- (1) To elect a chairman and such other officers as it deems advisable;
- (2) To advise and counsel the director with respect to the administration and conduct of such marketing agreement or order;
- (3) To recommend to the director administrative rules, regulations and orders and amendments thereto for the exercise of his powers in connection with such agreement or order;
- (4) To advise the director upon any and all assessments provided pursuant to the terms of such agreement or order and upon the collection, deposit, withdrawal, disbursement and paying out of all moneys;
- (5) To assist the director in the collection of such necessary information and data as the director may deem necessary in the proper administration of this chapter;
- (6) To administer the order or agreement as its administrative board if the director designates it so to do in such order or agreement;
- (7) To perform such other duties as the director may prescribe in the marketing agreement or order.

Any agreement or order under which the commodity board administers the order or agreement shall (if so requested by the affected producers within the affected area in the proposal or promulgation hearing) contain provisions whereby the director reserves the power to approve or disapprove every order, rule or directive issued by the board, in which event such approval or disapproval shall be based on whether or not the director believes the board's action has been carried out in conformance with the purposes of this chapter.

Sec. 12. Section 35, chapter 256, Laws of 1961 and RCW 15.65.350 are each amended to read as follows:

Every marketing agreement and order shall define the area to which it applies which may be all or any contiguous portion of the state. Such area may be defined as a "production area" in which case such agreement or order shall regulate or apply with respect to all of the commodity specified in such agreement or order which is produced within such production area and sold, marketed or delivered for sale or marketing. Such area may be defined as a "marketing area" in which case such agreement or order shall regulate or apply with respect to all of the commodity specified in such agreement or order which is stored in frozen condition or sold or marketed or delivered

for sale or marketing or distribution or processing or consumption within such marketing area.

Sec. 13. Section 39, chapter 256, Laws of 1961 and RCW 15.65.390 are each amended to read as follows:

There is hereby levied, and the director or his designee shall collect, upon each and every affected unit of any agricultural commodity specified in any marketing agreement or order an annual assessment which shall be paid by the producer thereof upon each and every such affected unit stored in frozen condition or sold or marketed or delivered for sale or marketed by him, and which shall be paid by the handler thereof upon each and every such unit purchased or received for sale, processing or distribution, or stored in frozen condition, by him: PROVIDED, That such assessment shall be paid by producers only, if only producers are regulated by such agreement or order, and by handlers only, if only handlers are so regulated, and by both producers and handlers if both are so regulated. Such assessments shall be expressed as a stated amount of money per unit. The total amount of such annual assessment to be paid by all producers of such commodity, or by all handlers of such commodity shall not exceed four percent of the total market value of all affected units stored in frozen condition or sold or marketed or delivered for sale or marketing by all producers of such units during the year to which the assessment applies. However, the total amount of such annual assessment upon producers, or handlers, or both producers and handlers, of the below listed commodities shall not exceed the amounts per unit or the percentage of selling price stated after the names of the respective commodities below:

- (1) Wheat, maximum, one-quarter cent per bushel.

Sec. 14. Section 41, chapter 256, Laws of 1961 and RCW 15.65.410 are each amended to read as follows:

The director shall prescribe in each marketing order and agreement the time, place and method for payment and collection of assessments under such order or agreement upon any uniform basis applicable alike to all producers subject to such assessment, and upon the same or any other uniform basis applicable alike to all handlers subject to such assessment. For such purpose the director may, by the terms of the marketing order or agreement(~~(-either)~~):

- (1) Require stamps to be purchased from him or his designee and attached to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets (said stamps to be canceled immediately upon being attached and the date of cancellation placed thereon); or

- (2) Require handlers to collect producer assessments from producers whose production they handle and remit the same to the director or his designee; or

(3) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(4) Require in the case of assessments against affected units stored in frozen condition:

(a) Cold storage facilities storing such commodity to file information and reports with the department or affected commission regarding the amount of commodity in storage, the date of receipt, and the name and address of each such owner; and

(b) That such commodity not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by the marketing order.

Unless the director has otherwise provided in any marketing order or agreement, assessments payable by producers shall be paid prior to the time when the affected unit is shipped off the farm, and assessments payable to handlers shall be paid prior to the time when the affected units are received by or for the account of the first handler. No affected units shall be transported, carried, shipped, sold, marketed or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid by the producer or first handler and the receipt issued.

Sec. 15. Section 44, chapter 256, Laws of 1961 and RCW 15.65.440 are each amended to read as follows:

Any due and payable assessment herein levied in such specified amount as may be determined by the director or his designee pursuant to the provisions of this chapter and such agreement or order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the director or his designee when payment is called for by him. In the event any person fails to pay the director or his designee the full amount of such assessment or such other sum on or before the date due, the director or his designee may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the director or his designee may bring a civil action against such person or persons in a ((state)) court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

Sec. 16. Section 63, chapter 256, Laws of 1961 and RCW 15.65.630 are each amended to read as follows:

Except for the provisions of ((RCW 15.65.410)) this chapter relating to levying, collecting, and paying assessments, nothing in this chapter shall

apply to any person engaged in the canning, freezing, pressing, or dehydrating of fresh fruit or vegetables.

Sec. 17. Section 15.44.010, chapter 11, Laws of 1961 as amended by section 1, chapter 238, Laws of 1979 ex. sess. and RCW 15.44.010 are each amended to read as follows:

As used in this chapter:

"Commission" means the Washington state dairy products commission;

To "ship" means to deliver or consign milk or cream to a person dealing in, processing, distributing, or manufacturing dairy products for sale, for human consumption or industrial or medicinal uses;

"Handler" means one who purchases milk, cream, or skimmed milk for processing, manufacturing, sale, or distribution;

"Dealer" means one who handles, ships, buys, and sells dairy products, or who acts as sales or purchasing agent, broker, or factor of dairy products;

"Processor" means a person who uses milk or cream for canning, drying, manufacturing, preparing, or packaging or for use in producing or manufacturing any product therefrom;

"Producer" means a person who produces milk from cows and sells it for human or animal food, or medicinal or industrial uses;

"Maximum authorized assessment rate" means the level of assessment most recently approved by a referendum of producers;

"Current level of assessment" means the level of assessment paid by the producer as set by the commission which cannot exceed the maximum authorized assessment rate.

Sec. 18. Section 15.44.080, chapter 11, Laws of 1961 as last amended by section 1, chapter 41, Laws of 1973 1st ex. sess. and RCW 15.44.080 are each amended to read as follows:

(1) There is hereby levied upon all milk produced in this state an assessment of 0.6% of class I price for 3.5% butter fat milk as established in any market area by a market order in effect in that area or by the state department of agriculture in case there is no market order for that area; and

(2) Subject to approval by a producer referendum as provided in this section, the commission shall have the further power and duty to increase the amount of the maximum authorized assessment rate to be levied upon either milk or cream according to the necessities required to effectuate the stated purpose of the commission.

In determining such necessities, the commission shall consider one or more of the following:

(a) The necessities of—

(i) developing better and more efficient methods of marketing milk and related dairy products;

(ii) aiding dairy producers in preventing economic waste in the marketing of their commodities;

(iii) developing and engaging in research for developing better and more efficient production, marketing and utilization of agricultural products;

(iv) establishing orderly marketing of dairy products;

(v) providing for uniform grading and proper preparation of dairy products for market;

(vi) providing methods and means including but not limited to public relations and promotion, for the maintenance of present markets, for development of new or larger markets, both domestic and foreign, for dairy products produced within this state, and for the prevention, modification or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(vii) restoring and maintaining adequate purchasing power for dairy producers of this state; and

(viii) protecting the interest of consumers by assuring a sufficient pure and wholesome supply of milk and cream of good quality;

(b) The extent and probable cost of required research and market promotion and advertising;

(c) The extent of public convenience, interest and necessity; and

(d) The probable revenue from the assessment as a consequence of its being revised.

This section shall apply where milk or cream is marketed either in bulk or package. However, this section shall not apply to milk or cream used upon the farm or in the household where produced.

The increase in the maximum authorized assessment (~~(or any part thereof)~~) rate to be charged producers on milk and cream provided for in this section shall not become effective until approved by fifty-one percent of the producers voting in a referendum conducted by the commission.

The referendum for approval of any increase in the maximum authorized assessment (~~(or part thereof)~~) rate provided for in this section shall be by secret mail ballot furnished to all producers paying assessments to the commission. The commission shall furnish ballots to producers at least ten days in advance of the day it has set for concluding the referendum and counting the ballots. Any interested producer may be present at such time the commission counts said ballots.

~~((Any proposed increase in assessments by the commission subsequent to a decrease in assessments as provided for in RCW 15.44.130(2) shall be subject to a referendum and approval by producers as herein provided:))~~

Sec. 19. Section 15.44.130, chapter 11, Laws of 1961 as amended by section 2, chapter 60, Laws of 1969 and RCW 15.44.130 are each amended to read as follows:

(1) In order to adequately advertise and market Washington dairy products in the domestic, national and foreign markets, and to make such advertising and marketing research and development as extensive as public

interest and necessity require, and to put into force and effect the policy of this chapter 15.44 RCW, the commission shall provide for and conduct a comprehensive and extensive research, advertising and educational campaign, and keep such research, advertising and education as continuous as the production, sales, and market conditions reasonably require.

(2) The commission shall investigate and ascertain the needs of dairy products and producers, the conditions of the markets, and the extent to which public convenience and necessity require advertising and research to be conducted. ~~((If upon such investigation, it shall appear that the revenue from an assessment provided for in RCW 15.44.080 is more than adequate to accomplish the purposes and objects of this chapter, it shall file a request with the director of agriculture showing the necessities of the industry, the extent and probable cost of the required research and advertising, the extent of public convenience, interest and necessity, and the probable revenue from the assessment herein levied and imposed. If such probable revenue is more than the amount reasonably necessary to conduct the research and advertising that the public interest and convenience require to accomplish the objects and purposes hereof, the commission shall decrease the assessment to a sum that the commission shall determine adequate to effectuate the purposes hereof. PROVIDED, That no such change shall be made in rate of assessment until the commission shall have filed with the director a full report of such investigations and findings. Such change in assessment shall be effective thirty days after such report is filed.))~~

(3)(a) The commission may decrease or increase the current level of assessment provided for in RCW 15.44.080 following a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.04 RCW: PROVIDED, That the current level of assessment established in this manner shall not exceed the maximum authorized assessment rate established by producers in the most recent referendum.

(b) Upon receipt of a petition bearing the names of twenty percent of the producers requesting a reduction in the current level of assessment, the commission shall hold a hearing in accordance with chapter 34.04 RCW to receive producer testimony. After considering the testimony of the producer, the commission may adjust the current level of assessment.

Sec. 20. Section 15.66.140, chapter 11, Laws of 1961 as amended by section 2, chapter 81, Laws of 1982 and RCW 15.66.140 are each amended to read as follows:

Every marketing commission shall have such powers and duties in accordance with provisions of this chapter as may be provided in the marketing order and shall have the following powers and duties:

(1) To elect a chairman and such other officers as determined advisable;

(2) To adopt, rescind and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;

(3) To administer, enforce, direct and control the provisions of the marketing order and of this chapter relating thereto;

(4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(5) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this chapter and of the marketing order;

(7) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the state auditor at least every five years;

(8) Borrow money and incur indebtedness;

(9) Make necessary disbursements for routine operating expenses;

(10) To expend funds for commodity-related education, training, and leadership programs as each commission deems expedient;

(11) Such other powers and duties that are necessary to carry out the purposes of this chapter.

NEW SECTION. Sec. 21. Section 2, chapter 64, Laws of 1971 and RCW 16.67.124 are each repealed.

NEW SECTION. Sec. 22. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 25, 1985.

Passed the Senate April 23, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 262

[Engrossed Substitute House Bill No. 254]

AMUSEMENT RIDES

AN ACT Relating to amusement rides; adding a new chapter to Title 67 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Amusement structure" means any electrical or mechanical devices or combinations thereof operated for revenue and to provide amusement or entertainment to viewers or audiences at carnivals, fairs, or amusement parks. "Amusement structure" does not include games in which a member of the public must perform an act, nor concessions at which customers may make purchases.

(2) "Amusement ride" means any vehicle, boat, or other mechanical device moving upon or within a structure, along cables or rails, through the air by centrifugal force or otherwise, or across water, that is used to convey one or more individuals for amusement, entertainment, diversion, or recreation. "Amusement ride" includes, but is not limited to, devices commonly known as skyrides, ferris wheels, carousels, parachute towers, tunnels of love, and roller coasters. "Amusement ride" shall not include: (a) Conveyances for persons in recreational winter sports activities such as ski lifts, ski tows, j-bars, t-bars, and similar devices subject to regulation under chapter 70.88 RCW; (b) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; (c) nonmechanized playground equipment, including but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices; or (d) water slides.

(3) "Department" means the department of labor and industries.

(4) "Insurance policy" means an insurance policy written by an insurer authorized to do business in this state under Title 48 RCW.

NEW SECTION. Sec. 2. Before operating any amusement ride or structure, the owner or operator shall:

(1) Obtain a permit pursuant to section 3 of this act;

(2) Have the amusement ride or structure inspected for safety at least once annually by an insurer or a person with whom the insurer has contracted and obtain from the insurer or person a written certificate that the inspection has been made and that the amusement ride or structure meets the standards for coverage and is covered by the insurer as required by subsection (3) of this section;

(3) Have and keep in effect an insurance policy in an amount not less than one million dollars per occurrence insuring: (a) The owner or operator; and (b) any municipality or county on whose property the amusement ride or structure stands, or any municipality or county which has contracted with the owner or operator against liability for injury to persons arising out of the use of the amusement ride or structure;

(4) File with the department the inspection certificate and insurance policy required by this section; and

(5) File with each sponsor, lessor, landowner, or other person responsible for an amusement structure or ride being offered for use by the public a certificate stating that the insurance required by subsection (3) of this section is in effect.

NEW SECTION. Sec. 3. (1) Application for an operating permit to operate an amusement ride or structure shall be made on an annual basis by the owner or operator of the amusement ride or structure. The application shall be made on forms prescribed by the department and shall include the certificate required by section 2(2) of this act.

(2) The department shall issue a decal with each permit. The decal shall be affixed on or adjacent to the control panel of the amusement ride or structure in a location visible to the patrons of the ride or structure.

NEW SECTION. Sec. 4. (1) Except as provided in subsection (2) of this section or unless a shorter period is specified by the department, permits issued under section 3 of this act are valid for a one-year period.

(2) If an amusement ride or structure is materially rebuilt or materially modified so as to change the original action of the amusement ride or structure, the amusement ride or structure shall be subject to a new inspection under section 2 of this act and the owner or operator shall apply for a new permit under section 3 of this act.

(3) If an amusement ride or structure for which a permit has been issued pursuant to section 3 of this act is moved and installed in another place but is not materially rebuilt or materially modified so as to change the original action of the amusement ride or structure, no new permit is required prior to the expiration of the permit.

NEW SECTION. Sec. 5. (1) The department shall adopt rules under chapter 34.04 RCW to administer this chapter. Such rules may exempt amusement rides or structures otherwise subject to this chapter if the amusement rides or structures are located on lands owned by United States government or its agencies and are required to comply with federal safety standards at least equal to those under this chapter.

(2) The department may order in writing the cessation of the operation of an amusement ride or structure for which no valid permit is in effect or for which the owner or operator does not have an insurance policy as required by section 2 of this act.

(3) All proceedings relating to permits or orders to cease operation under this chapter shall be conducted pursuant to chapter 34.04 RCW.

NEW SECTION. Sec. 6. The department may charge a reasonable fee not to exceed ten dollars for each permit issued under section 3 of this act. All fees collected by the department under this chapter shall be deposited in the state general fund.

NEW SECTION. Sec. 7. Any person who operates an amusement ride or structure without complying with the requirements of this chapter is guilty of a gross misdemeanor.

NEW SECTION. Sec. 8. Nothing contained in this chapter prevents a county or municipality from adopting and enforcing ordinances which relate to the operation of amusement rides or structures and supplement the provisions of this chapter.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act shall constitute a new chapter in Title 67 RCW.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. This act shall take effect on January 1, 1986.

Passed the House April 24, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 263

[Engrossed Substitute House Bill No. 577]
EMPLOYEE STOCK OWNERSHIP PLANS

AN ACT Relating to employee-ownership assistance programs; adding a new section to chapter 43.63A RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature declares it to be the policy of this state to encourage the broadening of the base of capital ownership among wider numbers of Washington citizens, and to encourage the use of employee stock ownership plans as one means of broadening the ownership of capital.

NEW SECTION. Sec. 2. A new section is added to chapter 43.63A RCW to read as follows:

(1) The department of community development is directed to undertake a study as to the best means of providing encouragement and assistance to the formulation of employee stock ownership plans providing for the partial or total acquisition, through purchase, distribution in lieu of compensation, or a combination of these means or any other lawful means, of shares of stock or other instruments of equity in facilities by persons employed at these facilities in cases in which operations at these facilities would, absent employee equity ownership, be terminated, relocated outside

of the state, or so reduced in volume as to entail the permanent layoff of a substantial number of the employees.

(2) In conducting its study, the department shall:

(a) Consider federal and state law relating directly or indirectly to plans proposed under subsection (1) of this section, and to the organization and operation of any trusts established pursuant to the plans, including but not limited to, the federal internal revenue code and any regulations promulgated under the internal revenue code, the federal securities act of 1933 as amended and other federal statutes providing for regulation of the issuance of securities, the federal employee retirement income and security act of 1974 as amended, the Chrysler loan guarantee legislation enacted by the United States congress in 1979, and other federal and state laws relating to employment, compensation, taxation, and retirement;

(b) Consult with relevant persons in the public sector, relevant persons in the private sector, including trustees of any existing employee stock ownership trust, and employees of any firm operating under an employee stock ownership trust, and with members of the academic community and of relevant branches of the legal profession;

(c) Examine the experience of trusts organized pursuant to an employee stock ownership plan in this state or in any other state; and

(d) Make other investigations as it may deem necessary in carrying out the purposes of this section.

(3) Pursuant to the findings and conclusions of the study conducted under subsection (2) of this section, the department of community development shall develop a plan to encourage and assist the formulation of employee stock ownership plans providing for the acquisition of stock by employees of facilities in this state which are subject to closure or drastically curtailed operation. The department shall determine the amount of any costs of implementing the plan.

(4) The director of community development shall, within one year of the effective date of this act, report the findings and conclusion of the study, together with details of the plan developed pursuant to the study, to the legislature, and shall include in the report any recommendations for legislation which the director deems appropriate. Beginning in 1987, the director shall annually submit to the legislature a report concerning the formation of new employee stock ownership trusts and the operation of existing employee stock ownership trusts in this state, and shall include in the report an account of state activity, during the previous year, in connection with these trusts.

(5) The department of community development shall carry out its duties under this section using available resources.

Passed the House April 22, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 264

[Substitute House Bill No. 39]

INSURANCE CODE—REVISIONS

AN ACT Relating to insurance; amending RCW 48.02.120, 48.05.200, 48.10.070, 48.15-.160, 48.16.070, 48.17.010, 48.17.520, 48.18.110, 48.20.420, 48.20.450, 48.20.470, 48.30.010, 48.30.140, 48.42.010, 48.18.290, 48.18.291, 48.18.292, 48.18.295, 48.18.296, and 48.23.300; adding a new section to chapter 48.01 RCW; adding a new section to chapter 48.18 RCW; creating a new section; repealing RCW 48.17.080; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 48.01 RCW to read as follows:

The term "developmental disability" as used in this title means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological condition closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

Sec. 2. Section .02.12, chapter 79, Laws of 1947 as amended by section 1, chapter 130, Laws of 1979 ex. sess. and RCW 48.02.120 are each amended to read as follows:

(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by this code.

(3) Actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

Sec. 3. Section .05.20, chapter 79, Laws of 1947 and RCW 48.05.200 are each amended to read as follows:

(1) Each authorized foreign or alien insurer shall appoint the commissioner as its attorney to receive service of, and upon whom shall be served,

all legal process issued against it in this state upon causes of action arising within this state. Service upon the commissioner as attorney shall constitute service upon the insurer. Service of legal process against such insurer can be had only by service upon the commissioner, except actions upon contractor bonds pursuant to RCW 18.27.040, where service may be upon the department of labor and industries.

(2) With the appointment the insurer shall designate by name and address the person to whom the commissioner shall forward legal process so served upon him or her. The insurer may change such person by filing a new designation.

(3) The appointment of the commissioner as attorney shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state any contract made by the insurer or liabilities or duties arising therefrom.

Sec. 4. Section .10.07, chapter 79, Laws of 1947 as last amended by section 5, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.10.070 are each amended to read as follows:

(1) A domestic reciprocal insurer hereafter formed, if it has otherwise complied with the provisions of this code, may be authorized to transact insurance if it ~~((deposits and maintains on deposit with the commissioner surplus funds in the minimum amount of three hundred thousand dollars))~~ initially possesses surplus in an amount equal to or exceeding the capital and surplus requirements required under RCW 48.05.340(1) plus special surplus, if any, required under RCW 48.05.360 and thereafter possesses, and maintains surplus funds equal to the paid-in capital stock required under RCW 48.05.340 of a stock insurer transacting like kinds of insurance, and the special surplus, if any, required under RCW 48.05.360.

(2) A ~~((domestic reciprocal insurer may be authorized to transact other kinds of insurance in addition to that for which it was originally authorized, if it has otherwise complied with the provisions of this code therefor and possesses and maintains surplus funds equal to the paid-in capital stock required under RCW 48.05.340 of a stock insurer transacting like kinds of insurance, and the special surplus, if any, required under RCW 48.05.360 as to such a stock insurer. The minimum deposit held by the commissioner shall constitute part of the surplus funds so otherwise required. The insurer need not deposit such additional surplus funds with the commissioner: PROVIDED, That a))~~ domestic reciprocal insurer which under prior laws held authority to transact insurance in this state may continue to be so authorized so long as it otherwise qualifies therefor and maintains surplus funds in amount not less than as required under laws of this state in force at the time such authority to transact insurance in this state was granted.

(3) A domestic reciprocal insurer heretofore formed shall maintain on deposit with the commissioner surplus funds of not less than the sum of one hundred thousand dollars, and to transact kinds of insurance transacted by

it in addition to that authorized by its original certificate of authority, shall have and maintain surplus (including the amount of such deposit) in amount not less than the paid-in capital stock required under RCW 48.05.340(1) plus special surplus, if any, required under RCW 48.05.360, of a domestic stock insurer formed after 1967 and transacting the same kinds of insurance. Such additional surplus funds need not be deposited with the commissioner.

Sec. 5. Section .15.16, chapter 79, Laws of 1947 as amended by section 22, chapter 190, Laws of 1949 and RCW 48.15.160 are each amended to read as follows:

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) Agents and brokers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The agent or broker shall furnish to the commissioner at ~~((his))~~ the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

Sec. 6. Section .16.07, chapter 79, Laws of 1947 as amended by section 8, chapter 86, Laws of 1955 and RCW 48.16.070 are each amended to read as follows:

The commissioner may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state, as the commissioner's depository to receive and hold any ~~((such))~~ deposit of securities. Any deposit so held shall be at the expense of the insurer. Any solvent financial institution domiciled in this state, the deposits of which are

insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, may be designated as the commissioner's depository to receive and hold any deposit of funds. All funds deposited shall be fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Sec. 7. Section .17.01, chapter 79, Laws of 1947 as amended by section 9, chapter 339, Laws of 1981 and RCW 48.17.010 are each amended to read as follows:

"Agent" means any person appointed by an insurer to solicit applications for insurance on its behalf~~((, and))~~. If authorized so to do, ((to)) an agent may effectuate insurance contracts((, and to)). An agent may collect premiums on insurances so applied for or effectuated.

Sec. 8. Section .17.52, chapter 79, Laws of 1947 as amended by section 9, chapter 197, Laws of 1953 and RCW 48.17.520 are each amended to read as follows:

(1) No such temporary license shall be effective for more than ninety days in any twelve month period, subject to extension for an additional period of not more than ninety days at the commissioner's discretion and for good cause shown. The commissioner may refuse so to license again any person who has previously been so licensed.

(2) An individual requesting temporary agent's license on account of death or disability of an agent, shall not be so licensed for any insurer as to which such agent was not licensed at the time of death or commencement of disability.

~~((3) No person writing or renewing any "controlled business," as defined in this chapter, under any temporary license, shall be entitled to receive any commission or other compensation on account thereof unless and until prior to the expiration of the temporary license such person fully qualifies for and receives a permanent license in replacement of the temporary license. Otherwise, the licensee under such temporary license may exercise the same powers as under a like permanent license.))~~

Sec. 9. Section .18.11, chapter 79, Laws of 1947 as amended by section 9, chapter 181, Laws of 1982 and RCW 48.18.110 are each amended to read as follows:

(1) The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only:

(a) If it is in any respect in violation of or does not comply with this code or any applicable order or regulation of the commissioner issued pursuant to the code; or

(b) If it does not comply with any controlling filing theretofore made and approved; or

(c) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(d) If it has any title, heading, or other indication of its provisions which is misleading; or

(e) If purchase of insurance thereunder is being solicited by deceptive advertising.

(2) In addition to the grounds for disapproval of any such form as provided in subsection (1) of this section, the commissioner may disapprove any form of disability insurance policy if the benefits provided therein are unreasonable in relation to the premium charged.

Sec. 10. Section 3, chapter 128, Laws of 1969 ex. sess. and RCW 48-20.420 are each amended to read as follows:

Any disability insurance contract providing health care services, delivered or issued for delivery in this state more than one hundred twenty days after August 11, 1969, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the contract, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of (~~mental retardation~~) developmental disability or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer by the subscriber within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two year period following the child's attainment of the limiting age.

Sec. 11. Section 16, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.20.450 are each amended to read as follows:

The commissioner shall issue regulations to establish specific standards, including standards of full and fair disclosure, that set forth the manner, content, and required disclosure for the sale of individual policies of disability insurance which shall be in addition to and in accordance with applicable laws of this state, including RCW (~~48.20.032~~) 48.20.450 through 48.20.480, which may cover but shall not be limited to:

- (1) Terms of renewability;
- (2) Initial and subsequent conditions of eligibility;
- (3) Nonduplication of coverage provisions;
- (4) Coverage of dependents;
- (5) Preexisting conditions;
- (6) Termination of insurance;
- (7) Probationary periods;
- (8) Limitations;

- (9) Exceptions;
- (10) Reductions;
- (11) Elimination periods;
- (12) Requirements for replacement;
- (13) Recurrent conditions; and
- (14) The definition of terms including but not limited to the following: Hospital, accident, sickness, injury, physician, accidental means, total disability, partial disability, nervous disorder, guaranteed renewable, and noncancellable.

Sec. 12. Section 18, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.20.470 are each amended to read as follows:

(1) No policy of individual disability insurance shall be delivered or issued for delivery in this state unless an outline of coverage described in subsection (2) of this section is furnished to the applicant in accord with such rules or regulations as the commissioner shall prescribe.

(2) The commissioner shall prescribe the format and content of the outline of coverage required by subsection (1) of this section. "Format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

(a) A statement identifying the applicable category or categories of coverage provided by the policy as prescribed in (~~section 15 of this 1975 act~~) RCW 48.20.450;

(b) A description of the principal benefits and coverage provided in the policy;

(c) A statement of the exceptions, reductions and limitations contained in the policy;

(d) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums; and

(e) A statement that the outline is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

Sec. 13. Section .30.01, chapter 79, Laws of 1947 as last amended by section 6, chapter 152, Laws of 1973 1st ex. sess. and RCW 48.30.010 are each amended to read as follows:

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation promulgated pursuant to chapter 34.04 RCW, define other methods of competition and other acts and

practices in the conduct of such business reasonably found by ~~((him))~~ the commissioner to be unfair or deceptive.

(3) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order by which it is promulgated.

(4) If the commissioner has cause to believe that any person is violating any such regulation ~~((he))~~, the commissioner may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person violates the order after expiration of ten days after the cease and desist order has been received by him or her, he or she may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter ~~((or the commissioner may take such other action independently, or in addition, as is permitted under the insurance code for the violation of the regulation))~~.

(5) If any such regulation is violated, the commissioner may take such other or additional action as is permitted under the insurance code for violation of a regulation.

Sec. 14. Section .30.14, chapter 79, Laws of 1947 as amended by section 3, chapter 119, Laws of 1975-'76 2nd ex. sess. and RCW 48.30.140 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, general agent, agent, broker, or solicitor shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed agent, general agent, broker, or solicitor for insurance placed on his or her own property or risks ~~((; if the aggregate of such commissions does not exceed five percent of the total net commissions received by the agent, general agent, broker, or solicitor during the same twelve month period))~~.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance agent, general agent, broker, or solicitor, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the agent's or broker's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers, agents, or brokers whereby prizes, goods, wares, or merchandise, not exceeding five dollars in value per person in the aggregate

in any twelve month period, are given to all insureds or prospective insureds under similar qualifying circumstances.

Sec. 15. Section 1, chapter 36, Laws of 1983 and RCW 48.42.010 are each amended to read as follows:

Notwithstanding any other provision of law, and except as provided in this chapter, any person or other entity which provides coverage in this state for life insurance, annuities, loss of time, medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, the providing of services, or otherwise, shall be subject to the authority of the state insurance commissioner, unless the person or other entity shows that while providing the services it is subject to the jurisdiction and regulation of another agency of this state, any subdivisions thereof, or the federal government.

NEW SECTION. Sec. 16. Section .17.08, chapter 79, Laws of 1947 and RCW 48.17.080 are each repealed.

Sec. 17. Section .18.29, chapter 79, Laws of 1947 as last amended by section 7, chapter 110, Laws of 1982 and RCW 48.18.290 are each amended to read as follows:

(1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(a) Written notice of such cancellation must be actually delivered or mailed to the insured or to his or her representative in charge of the subject of the insurance not less than ~~((twenty))~~ forty-five days prior to the effective date of the cancellation except for cancellation of insurance policies for nonpayment of premiums, which notice shall be not less than ten days prior to such date and except for cancellation of fire insurance policies under chapter 48.53 RCW, which notice shall not be less than five days prior to such date;

(b) Like notice of not less than ~~((twenty))~~ forty-five days must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his or her last address as known to the insurer or as shown by the insurer's records, with proper pre-paid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as possible, and no later than ((thirty)) forty-five days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid.

Sec. 18. Section 19, chapter 241, Laws of 1969 ex. sess. as amended by section 6, chapter 199, Laws of 1979 ex. sess. and RCW 48.18.291 are each amended to read as follows:

(1) No contract of insurance predicated wholly or in part upon the use of a private passenger automobile shall be terminated by cancellation by the insurer until at least twenty days after mailing written notice of cancellation to the named insured at the latest address filed with the insurer by or on behalf of the named insured, accompanied by the reason therefor: **PROVIDED**, That where cancellation is for nonpayment of premium, or is within the first thirty days after the contract has been in effect, at least ten days notice of cancellation, accompanied by the reason therefor, shall be given: **PROVIDED HOWEVER**, That in case of a contract evidenced by a written binder which has been delivered to the insured, if such binder contains a clearly stated expiration date, no additional notice of cancellation or nonrenewal shall be required.

(2) (a) No notice of cancellation by the insurer as to a contract of insurance to which subsection (1) applies shall be valid if sent more than sixty days after the contract has been in effect unless:

(i) The named insured fails to discharge when due any of his or her obligations in connection with the payment of premium for the policy or any installment thereof, whether payable directly to the insurer or to its agent or indirectly under any premium finance plan or extension of credit.

(ii) The driver's license of the named insured, or of any other operator who customarily operates an automobile insured under the policy, has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty days immediately preceding the effective date of the renewal policy.

(b) Modification by the insurer of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars shall not be deemed a cancellation of the coverage or of the policy.

(3) The substance of subsections (1) and (2)(a) of this section must be set forth in each contract of insurance subject to the provisions of subsection (1) above, and may be in the form of an attached endorsement.

(4) No notice of cancellation of a policy which can be canceled only pursuant to subsection (2) shall be effective unless the reason therefor accompanies or is included in the notice of cancellation.

Sec. 19. Section 20, chapter 241, Laws of 1969 ex. sess. as last amended by section 17, chapter 339, Laws of 1981 and RCW 48.18.292 are each amended to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.291 unless one of the following situations exists:

(a) The insurer gives the named insured at least twenty days' notice in writing as provided for in RCW 48.18.291(1), that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy, including the amount by which the premium or deductibles have changed from the previous policy period, and the date by which such payment must be made, and the insured fails to discharge when due his obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's agent or broker has procured other coverage acceptable to the insured prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term: PROVIDED, HOWEVER, That any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.291 through 48.18.297 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.291 through 48.18.297, be considered as if written for successive policy periods or terms of one year.

(4) On and after January 1, 1980, no policy of insurance subject to RCW 48.18.291 shall be issued for a policy period or term of less than six months.

(5) No insurer shall refuse to renew the liability and/or collision coverage of an automobile insurance policy on the basis that an insured covered by the policy of the insurer has submitted one or more claims under the comprehensive, road service, or towing coverage of the policy. Nothing in this subsection shall prohibit the nonrenewal of comprehensive, road service, or towing coverage on the basis of one or more claims submitted by an insured.

NEW SECTION. Sec. 20. A new section is added to chapter 48.18 RCW, to be codified as RCW 48.18.2901, to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.290 unless one of the following situations exists:

(a) The insurer gives the named insured at least forty-five days' notice in writing as provided for in RCW 48.18.290, that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy, including the amount by which the premium or deductibles have changed from the previous policy period, and the date by which such payment must be made, and the insured fails to discharge when due his obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's agent or broker has procured other coverage acceptable to the insured prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal, or with respect to cancellation of fire policies under chapter 48.53 RCW.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term: PROVIDED, HOWEVER, That any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295, be considered as if written for successive policy periods or terms of one year.

Sec. 21. Section 2, chapter 95, Laws of 1967 ex. sess. as amended by section 22, chapter 241, Laws of 1969 ex. sess. and RCW 48.18.295 are each amended to read as follows:

Nothing in RCW (~~48.18.291~~) 48.18.290 through 48.18.297 shall be construed to prevent the cancellation or nonrenewal of any such insurance where:

(1) Such cancellation or nonrenewal is ordered by the commissioner under a statutory delinquency proceeding commenced under the provisions of chapter 48.31 RCW, or

(2) Permission for such cancellation or nonrenewal has been given by the commissioner on a showing that the continuation of such coverage can reasonably be expected to create a condition in the company hazardous to its policyholder, or to its creditors, or to its members, subscribers, or stockholders, or to the public.

Sec. 22. Section 23, chapter 241, Laws of 1969 ex. sess. as amended by section 6, chapter 32, Laws of 1983 1st ex. sess. and RCW 48.18.296 are each amended to read as follows:

~~((+))~~ The provisions of RCW 48.18.291 through 48.18.297 shall not apply to:

~~((a))~~ (1) Contracts of insurance issued under the assigned risk plan; and

~~((b))~~ ~~Contracts of insurance, other than combination homeowners and vehicle insurance policies, providing principally general casualty or property insurance with only incidental additional vehicle insurance; and~~

~~((c))~~ ~~Contracts of insurance insuring more than four motor vehicles; and~~

~~((d))~~ (2) Any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

Sec. 23. Section .23.30, chapter 79, Laws of 1947 as amended by section 21, chapter 32, Laws of 1983 1st ex. sess. and RCW 48.23.300 are each amended to read as follows:

Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate funds so held but may hold them as part of its general assets.

~~((An insurer holding proceeds while awaiting determination of the final settlement option shall accrue interest on the proceeds from the date of death or maturity at a rate not less than the lower of the average over a period of thirty-six months and the average over a period of twelve months;~~

~~ending on June 30 of the calendar year next preceding the year of death or maturity, of Moody's Corporate Bond Yield Average=Monthly Average Corporates, as published by Moody's Investors Service, Inc. This interest shall become payable as part of the settlement. If Moody's Corporate Bond Yield Average=Monthly Average Corporates is no longer published by Moody's Investor Service, Inc., or if the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average=Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of this interest rate, then an alternative interest rate shall be defined by rule adopted by the commissioner))~~ An insurer shall pay interest on death benefits payable under the terms of a life insurance policy insuring the life of any person who was a resident of this state at the time of death. Such interest shall accrue commencing on the date of death at the rate then paid by the insurer on other withdrawable policy proceeds left with the company, but not less than eight percent. Benefits payable that have not been tendered to the beneficiary within ninety days of the receipt of proof of death shall accrue interest, commencing on the ninety-first day, at the aforementioned rate plus three percent. This section applies to death of insureds that occur on or after September 1, 1985.

NEW SECTION. Sec. 24. Sections 17 through 22 of this act apply to all new or renewal policies issued or renewed after the effective date of sections 17 through 22 of this act. Sections 17 through 22 of this act shall not apply to or affect the validity of any notice of cancellation mailed or delivered prior to the effective date of sections 17 through 22 of this act. Sections 17 through 22 of this act shall not be construed to affect cancellation of a renewal policy, if notice of cancellation is mailed or delivered within forty-five days after the effective date of sections 17 through 22 of this act. Sections 17 through 22 of this act shall not be construed to require notice, other than that already required, of intention not to renew any policy which expires less than forty-five days after the effective date of sections 17 through 22 of this act.

NEW SECTION. Sec. 25. Sections 17 through 22 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 265

[Engrossed House Bill No. 58]
ARBITRATION AWARDS

AN ACT Relating to arbitration; amending RCW 7.04.090 and 7.06.020; and adding a new section to chapter 7.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9, chapter 138, Laws of 1943 and RCW 7.04.090 are each amended to read as follows:

If the time within which the award shall be made is not fixed in the arbitration agreement, the award shall be made within thirty days from the closing of the proceeding, ~~((and any award made after the lapse of such thirty days shall have no legal effect,))~~ unless the parties, in writing, extend the time in which ~~((said))~~ that award may be made ~~((or ratify any award made after the expiration of the thirty day period. Any extension of time or ratification of the award shall be in writing and signed by all parties to the arbitration))~~. If the arbitrator fails to make an award when required, the court, upon motion and hearing, shall order the arbitrator to enter an award within the time fixed by the court, and may impose sanctions or terms deemed reasonable by the court. Failure to make an award within the time required shall not divest the arbitrators of jurisdiction to make an award or to correct or modify an award as provided in section 2 of this 1985 act.

NEW SECTION. Sec. 2. A new section is added to chapter 7.04 RCW to read as follows:

On application of a party or, if an application to the court is pending under RCW 7.04.150, 7.04.160, or 7.04.170, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in RCW 7.04.170 (1) and (3). The application shall be made, in writing, within ten days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that objections, if any, must be served within ten days from the notice. The arbitrators shall rule on the application within twenty days after such application is made. Any award so modified or corrected is subject to the provisions of RCW 7.04.150, 7.04.160, and 7.04.170 and is to be considered the award in the case for purposes of this chapter, said award being effective on the date the corrections or modifications are made. If corrections or modifications are denied, then the award shall be effective as of the date the award was originally made.

Sec. 3. Section 2, chapter 103, Laws of 1979 as amended by section 1, chapter 188, Laws of 1982 and RCW 7.06.020 are each amended to read as follows:

(1) All civil actions, except for appeals from municipal or justice courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of ten thousand dollars, or if approved by the superior court of a county by ~~((majority))~~ two-thirds or greater vote of the judges thereof, ((fifteen)) up to twenty-five thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.

Passed the House April 22, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 266

[House Bill No. 168]

UNIVERSITY OF WASHINGTON PRINTING CRAFT EMPLOYEES—HIGHER EDUCATION PERSONNEL LAW EXEMPTION

AN ACT Relating to higher education personnel; and adding a new section to chapter 28B.16 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28B.16 RCW to read as follows:

In addition to the exemptions set forth in RCW 28B.16.040, the provisions of this chapter do not apply to printing craft employees in the department of printing of the University of Washington.

Passed the House March 1, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 267

[Engrossed Substitute House Bill No. 214]

WATERCRAFT—OPERATION IN A NEGLIGENT MANNER—OPERATION WHILE UNDER THE INFLUENCE OF LIQUOR OR DRUGS

AN ACT Relating to watercraft; amending RCW 10.31.100 and 88.02.020; adding a new section to chapter 88.02 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15, chapter 7, Laws of 1983 as amended by section 47, chapter 3, Laws of 1983 2nd ex. sess. and RCW 88.02.020 are each amended to read as follows:

~~((1))~~ Except as provided in this chapter, no person may own or operate any vessel on the waters of this state unless the vessel has been registered and displays a registration number and a valid decal in accordance with this chapter, except that a vessel which has or is required to have a valid marine document as a vessel of the United States is only required to display a valid decal.

~~((2) No person may use any vessel to which this chapter applies:~~

~~(a) In a negligent manner so as to endanger the life, limb, or property of any person; or~~

~~(b) While under the influence of alcohol, narcotic drugs, hallucinogens, or other controlled substances:))~~

NEW SECTION. Sec. 2. A new section is added to chapter 88.02 RCW to read as follows:

(1) It shall be unlawful for any person to operate a vessel in a negligent manner, except a commercial vessel which has or is required to have a valid marine document as a vessel of the United States and is operating in the navigable waters of the United States. For the purpose of this section, to "operate in a negligent manner" shall be construed to mean the operation of a vessel in such manner as to endanger or be likely to endanger any persons or property.

(2) A person is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel within this state while:

(a) The person has 0.10 percent or more by weight of alcohol in his blood as shown by chemical analysis of the person's breath, blood, or other bodily substance made under RCW 46.61.506; or

(b) The person is under the influence of or affected by intoxicating liquor or any drug; or

(c) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(3) For the purposes of this section, "vessel" means any watercraft used or capable of being used as a means of transportation on the water.

(4) For the purpose of this section, "vessel operator" means a person who is in actual physical control of a vessel.

(5) A violation of this section is a misdemeanor, punishable by up to ninety days in jail and by a fine of not more than one thousand dollars. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

Sec. 3. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 19, chapter 263, Laws of 1984 and RCW 10.31.100 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through ~~((4))~~ (5) of this section.

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

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.060, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence; or

(b) The person within the preceding four hours has assaulted that person's spouse, former spouse, or other person with whom the person resides or has formerly resided.

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

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

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

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

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

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

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

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

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of section 2 of this 1985 act shall have the authority to arrest the person.

(6) Except as specifically provided in subsections (2), (3), and (4) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((6)) (7) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) if the police officer acts in good faith and without malice.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 268

[Substitute House Bill No. 622]

CENTENNIAL COMMISSION—COMPREHENSIVE PROGRAM EVENTS

AN ACT Relating to the Washington centennial commission; amending RCW 27.60.900; adding a new section to chapter 27.60 RCW; creating a new section; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION, Sec. 1. The legislature declares that Captain Robert Gray's discovery of Grays Harbor, successful crossing of the Columbia river bar, and first entry into the great "River of the West" on May 11, 1792, were some of the greatest events in Northwest maritime history. The legislature further declares that Captain Robert Gray's exploration of the Columbia river, Grays Harbor, and Washington's coastal regions, Captain George Vancouver's exploration and mapping of Puget Sound and Washington's coastal regions, and the mapping and exploration of the Washington coast and inland areas by the Captain Charles Wilkes expedition were events of momentous historical significance and must be preserved for the inspiration of future generations. To these ends, the legislature finds that it is in the public interest to establish a "Return of the Tall Ships" program.

NEW SECTION. Sec. 2. A new section is added to chapter 27.60 RCW to read as follows:

(1) The 1989 Washington centennial commission shall include in its comprehensive program events commemorating:

(a) The first successful crossing of the Columbia river bar and exploration of the Columbia river, Grays Harbor, and Washington coast by Captain Robert Gray;

(b) The exploration and mapping of Puget Sound and the Washington coast by Captain George Vancouver; and

(c) The exploration and mapping of the Washington coast and inland areas by Captain Charles Wilkes and the Great United States Exploring Expedition.

The year 1992 will mark the bicentennial of the voyages of both Captain Robert Gray and Captain George Vancouver and the sesquicentennial of the voyage of Captain Charles Wilkes.

(2) The commission shall develop and implement the "Return of the Tall Ships" program. The purpose of this program is to develop destination tourism attractions and to promote the construction of life-sized replicas of the "Lady Washington" and the "Chatham," or other vessels which carried members of the Gray and Vancouver expeditions to this region and other appropriate commemorations of the accomplishments of these explorations in cooperation with communities throughout the state. The commission shall consider locating the destination tourism attractions required by this section in the economically depressed areas of the state. The commission shall report to the legislature and the governor on or before January 10, 1986, as to a plan to implement the purposes of this chapter.

As used in this section, "destination tourism attractions" means attractions based on the heritage of the state that are sponsored and owned by the state, a municipal corporation thereof, or a nonprofit corporation which has qualified under section 501(c)(3) of the federal internal revenue code and that satisfy economic development criteria established in cooperation with the director of commerce and economic development in accordance with the administrative procedure act, chapter 34.04 RCW.

Sec. 3. Section 6, chapter 90, Laws of 1982 and RCW 27.60.900 are each amended to read as follows:

The 1989 Washington centennial commission as established by this chapter shall cease to exist on December 31, (~~1990~~) 1993.

NEW SECTION. Sec. 4. There is appropriated from the general fund to the Washington centennial commission for the biennium ending June 30,

1987, the sum of twenty thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985

CHAPTER 269

[Engrossed House Bill No. 943]

WASHINGTON TECHNOLOGY EXCHANGE

AN ACT Relating to technology transfer; adding a new chapter to Title 43 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the commercialization of new products and technologies by Washington-based researchers and entrepreneurs to new and successful companies is a vital step in the state's economic development efforts. The diversification of the state's economic base is dependent on fully utilizing the entrepreneurial talent which exists in both the public and private sectors. New product development requires a systematic and coordinated exchange between researchers, investors, and entrepreneurs willing to take risks to market inventions.

NEW SECTION. Sec. 2. The Washington technology exchange is created, within the department of commerce and economic development, to facilitate an exchange of ideas between industry, investors, and entrepreneurs.

NEW SECTION. Sec. 3. As used in this chapter:

(1) "Director" means the director of commerce and economic development.

(2) "Department" means the department of commerce and economic development.

(3) "Exchange" means the Washington technology exchange.

(4) "Seed capital" means risk money invested for the initial development, refinement, testing, marketing, and commercialization of a product, service, or process with a high potential for long-term sales.

(5) "Technology transfer" means the systematic development of new technology-based inventions into commercial production.

NEW SECTION. Sec. 4. The director shall coordinate and contract with any public or private organization to provide for the services of the exchange. The exchange shall:

(1) Provide for an informal exchange between small firms seeking seed capital and seed capital investors;

(2) Assist in the licensing and patenting of new inventions of private and public researchers and entrepreneurs;

(3) Create an investor data base to determine potential sources and types of financing;

(4) Establish an outreach network and referral process for entrepreneurs to locate research talent and conduct problem-solving or technological developments;

(5) Assist in the market analysis of new product developments;

(6) Create a process to encourage and reward entrepreneurs to patent inventions; and

(7) Analyze other needs and promote steps to encourage technology transfer across the state.

NEW SECTION. Sec. 5. The exchange shall have the following powers and duties:

(1) To receive gifts and grants;

(2) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, or city government and other associations affected by or concerned with the business of the exchange;

(3) To secure matching funds and private sector support in order to become self-sufficient;

(4) To contract for services as is necessary to carry out its duties and responsibilities; and

(5) To report to the governor and the legislature on activities of the exchange on a yearly basis.

NEW SECTION. Sec. 6. This chapter expires June 30, 1987.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. If specific funding for the purposes of this act, referencing this act by bill number, is not provided in the omnibus appropriations act enacted before July 1, 1985, this act shall be null and void.

NEW SECTION. Sec. 9. Sections 1 through 6 of this act shall constitute a new chapter in Title 43 RCW.

Passed the House March 15, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 270

[Substitute Senate Bill No. 3059]

MARGINAL LABOR FORCE ATTACHMENT—EMPLOYER CONTRIBUTION
RATES—REVISION

AN ACT Relating to the revision of employers' rates of contribution for unemployment compensation for employees with marginal labor force attachment; amending RCW 50.29.020; adding a new section to chapter 50.29 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 50.29 RCW to read as follows:

(1) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1985, the department shall calculate a percentage rate of savings for benefit charges for the fiscal year ending June 30, 1985 and apply the rate as though RCW 50.29.020(2)(g) had been in effect for fiscal years 1984, 1983, 1982, and 1981. For fiscal years ending June 30, 1986, and beyond, benefit charges will be calculated pursuant to RCW 50.29.020(2)(g).

(2) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1986, the department shall calculate the percentage rate of savings for benefit charges for the fiscal year ending 1985, and apply the rate to fiscal years 1984, 1983, and 1982.

(3) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1987, the department shall calculate the average percentage rate of savings for benefit charges for fiscal years 1986 and 1985, and apply the rate to fiscal years 1984 and 1983.

(4) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1988, the department shall calculate the average percentage rate of savings for benefit charges for fiscal years 1987, 1986, and 1985, and apply the rate to fiscal year 1984.

Sec. 2. Section 11, chapter 2, Laws of 1970 ex. sess. as last amended by section 7, chapter 205, Laws of 1984 and RCW 50.29.020 are each amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except those employers whose employees are covered under chapter 50.44 RCW, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as provided in section 1 of this 1985 act.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers whose employees are not covered under chapter 50.44 RCW, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12-.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

(d) Benefits paid which represent the state's share of benefits payable under chapter 50.22 RCW shall not be charged to the experience rating account of any contribution paying employer.

(e) Benefits paid to a claimant who requalifies for benefits under RCW 50.20.050 or 50.20.060 shall not be charged to the experience rating account of the contribution paying employer with whom the disqualifying separation took place.

(f) Benefits paid to an individual as the result of a determination by the commissioner that no stoppage of work exists, pursuant to RCW 50.20-.090, shall not be charged to the experience rating account of any contribution paying employer.

(g) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 6, 1985.

Passed the House April 17, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 271

[Engrossed Senate Bill No. 3189]

PUBLIC EMPLOYEES—VOLUNTARY PAYROLL DEDUCTIONS FOR
POLITICAL COMMITTEES

AN ACT Relating to payroll deductions for public employees; and amending RCW 41.04.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 59, Laws of 1969 as last amended by section 3, chapter 28, Laws of 1983 1st ex. sess. and RCW 41.04.230 are each amended to read as follows:

Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That the credit union is organized solely for public employees: AND PROVIDED FURTHER, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That

twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER, That labor or employee organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Voluntary deductions for political committees duly registered with the public disclosure commission and/or the federal election commission: PROVIDED, That twenty-five or more officers or employees of a single agency or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same political committee.

(8) Insurance contributions to the trustee of contracts for payment of premiums under contracts authorized by the state employees' insurance board.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state employees' insurance board.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction.

Passed the Senate April 25, 1985.

Passed the House April 3, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 272

[Engrossed Substitute Senate Bill No. 3723]

STADIUM CAPITAL IMPROVEMENT PROJECTS

AN ACT Relating to local government; and amending RCW 67.28.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 236, Laws of 1967 as last amended by section 1, chapter 225, Laws of 1975 1st ex. sess. and RCW 67.28.180 are each amended to read as follows:

(1) Subject to the conditions set forth in subsection (2) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge

made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property: PROVIDED, That it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this chapter shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this chapter upon the same taxable event;

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of subsection (a), so long as, and to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, maintaining, operating, and equipping stadium capital improvement projects to include, but not limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto, and to pay for any engineering, planning, financial, legal and professional services incident to the development and operation of such stadium capital improvement projects. The stadium restaurant authorized by this subsection (2) (b) shall be operated by a private concessionaire under a contract with the county;

(c) No city within ((such)) a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt: PROVIDED, That in the event that any city in such county has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as and to the extent that the tax revenues are pledged

for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 20, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 273

[Engrossed Senate Bill No. 3854]
ONGOING ABSENTEE VOTERS

AN ACT Relating to absentee voting; amending RCW 29.36.010; and adding new sections to chapter 29.36 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 29.36.010, chapter 9, Laws of 1965 as last amended by section 1, chapter 27, Laws of 1984 and RCW 29.36.010 are each amended to read as follows:

Any duly registered voter may vote an absentee ballot for any primary or election in the manner provided in this chapter.

(1) Except as provided in subsections (2) and (3) of this section and section 2 of this 1985 act, a registered voter desiring to cast an absentee ballot must apply in writing to his or her county auditor no earlier than forty-five days nor later than the day ((prior to)) before any election or primary((~~PROVIDED, That~~)).

(2) An application honored for a primary ballot shall also be honored as an application for a ballot for the following general election if the voter so indicates on his or her application((~~PROVIDED FURTHER, That~~)).

(3) A voter admitted to a hospital no earlier than five days before a primary or election and confined to the hospital on election day may apply by messenger for an absentee ballot on the day of the primary or election if a signed statement from the hospital administrator, or designee, verifying the voter's date of admission and status as a patient in the hospital on the day of the primary or election is attached to the absentee ballot application.

(4) Such applications must contain the voter's signature and may be made in person ((or)), by mail, or messenger((~~PROVIDED, That no~~)). An application for an absentee ballot shall not be approved unless the voter's signature upon the application compares favorably with the voter's signature upon his ((permanent)) or her registration record.

NEW SECTION. Sec. 2. A new section is added to chapter 29.36 RCW to read as follows:

Any disabled voter or any voter over the age of sixty-five may apply, in writing, for status as an ongoing absentee voter. Each such voter shall be granted that status by his or her county auditor and shall automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote and need not submit a separate application for each election. Ballots received from ongoing absentee voters shall be validated, processed, and tabulated in the same manner as other absentee ballots.

Status as an ongoing absentee voter shall be terminated upon any of the following events:

- (1) The written request of the voter;
- (2) The death or disqualification of the voter;
- (3) The cancellation of the voter's registration record;
- (4) The return of an ongoing absentee ballot as undeliverable; or
- (5) January 1st of each odd-numbered year.

A disabled voter is defined as a voter qualifying for special parking privileges under RCW 46.16.381(1).

NEW SECTION. Sec. 3. A new section is added to chapter 29.36 RCW to read as follows:

As soon as practical following the first day of January of each odd-numbered year, the county auditor shall notify each ongoing absentee voter of the termination of his or her status as such a voter under section 2(5) of this act. Included with this notice shall be a postage prepaid return form permitting any such voter to renew his or her status as an ongoing absentee voter. Upon receipt and signature verification of the renewal form, the county auditor shall continue to provide absentee ballots to such voters, subject to the provisions of section 2 of this act.

Passed the Senate April 22, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 274

[House Bill No. 832]

WORLD FAIR COMMISSION

AN ACT Relating to the world fair commission; adding a new section to chapter 43.96D RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.96D RCW to read as follows:

The world fair commission may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, and may enter into contracts, leases, or other revenue producing agreements for the use and benefit of the purposes of the commission and expend the same and any income therefrom in implementing its duties under this chapter. However, no gifts, grants, and endowments shall be accepted for the personal use of any commissioner. As used in this section, gifts, grants and endowments may be temporary or permanent.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 26, 1985.

Passed the Senate April 26, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 275

[Engrossed House Bill No. 54]

NUCLEAR INCIDENTS—LIABILITY

AN ACT Relating to tort liability; and adding new sections to chapter 4.24 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 4.24 RCW to read as follows:

Unless the context clearly requires otherwise the following definitions apply throughout section 2 of this act:

(1) "Nuclear incident" means any occurrence within this state causing, within or without this state, bodily injury, sickness, disease or death; loss or damage to property; or loss of use of property arising out of the resultant radioactive, toxic, explosive, or other hazardous properties of radioactive wastes being stored in or being transported to or from a waste repository in this state.

(2) "Operator" means the entity or entities that have been given responsibility for constructing, operating, or monitoring waste repositories or transporting radioactive waste and may include the United States and its federal agencies.

(3) "Radioactive waste" includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, transuranic radioactive waste, spent nuclear fuel, and radioactive defense waste. It does not include de minimus radioactive waste.

(4) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(5) "Waste repository" means any system which is intended or may be used for the disposal or storage of radioactive waste including permanent disposal systems, interim storage systems, monitored retrievable storage systems, defense waste storage systems, test and evaluation facilities, or similar systems.

NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW to read as follows:

(1) Operators are liable for failure to exercise ordinary and reasonable care to protect persons and property subject to injury in nuclear incidents. In addition, operators are liable for operational expenses and emergency purchases incurred by local or state governments in responding to nuclear incidents.

(2) If a nuclear incident occurs, there is a presumption that the operator of a waste repository was negligent in constructing, operating, or monitoring the waste repository, or in transporting radioactive waste, and that the operator was an actual cause of the nuclear incident. The presumption may be rebutted by a clear and convincing showing by the operator that the nuclear incident was not the result of the operator's negligence and that the operator's negligence was not an actual cause of the nuclear incident.

(3) This section does not limit the recovery of parties injured by a nuclear incident against the operators of a waste repository under theories of negligence in selecting contractors, failure to retain adequate controls over the waste repository, vicarious liability for contractors, failure to take reasonable precautionary measures with respect to inherently dangerous activities, and other negligence theories. This section does not limit the recovery of parties injured by a nuclear incident against parties other than operators of a waste facility.

Passed the House February 8, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 276

[House Bill No. 153]

CHILD SUPPORT ENFORCEMENT

AN ACT Relating to child support enforcement; amending RCW 74.20.040, 74.20A.040, 74.20.330, 74.20A.020, 74.20A.030, 74.20A.080, 74.20A.100, 74.20A.160, 74.20A.180, 74.20A.200, 74.20A.230, 74.20A.240, 74.20A.250, and 74.20A.270; adding a new section to chapter 74.20A RCW; creating a new section; repealing RCW 74.20.020; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 322, Laws of 1959 as last amended by section 29, chapter 260, Laws of 1984 and RCW 74.20.040 are each amended to read as follows:

(1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept ~~((applications))~~ a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action ~~((in appropriate cases))~~ to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. ~~((Applications))~~ Requests accepted under this ~~((section))~~ subsection may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, ~~((such))~~ reasonable standards ~~((as may be necessary to limit applications))~~ and qualifications for support enforcement services under this subsection. ~~((Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.))~~

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act, and may take appropriate action to establish and enforce support obligations against the parent or other person owing a duty to pay support moneys. Requests from such agencies must be accompanied by a request for support enforcement services executed by the state agency submitting the application and the person to whom the support moneys were owed authorizing the secretary to initiate appropriate action to establish, enforce, and collect the support obligation on their behalf. The application shall contain and be accompanied by such information and documentation as the secretary may by rule require.

The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state.

(4) The secretary may charge and collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may ~~((the fee be))~~ any moneys collected by the department of social and health services from the person obligated to pay support be retained as satisfaction of fees charged until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

~~((4))~~ (5) Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

~~((5))~~ (6) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

Sec. 2. Section 4, chapter 164, Laws of 1971 ex. sess. as amended by section 5, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.040 are each amended to read as follows:

The secretary may issue a notice of a support debt accrued and/or accruing based upon ~~((subrogation to or))~~ RCW 74.20A.030, assignment of ((the judgment)) a support debt or a request for support enforcement services under RCW 74.20.040 (2) or (3), to enforce and collect a support debt created by a superior court order. Said notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt. Said notice of debt shall include a statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW 74.20A.030, has an assigned interest, or has been authorized to enforce pursuant to RCW 74.20-.040 (2) or (3); a statement that the property of the debtor is subject to collection action; a statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the

support debt. Action to collect ~~((said subrogated or assigned))~~ a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

Sec. 3. Section 22, chapter 171, Laws of 1979 ex. sess. and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any ~~((rights))~~ unpaid support obligation or support debt which ~~((have))~~ has accrued at the time the assignment is made. Payment of public assistance under this ~~((chapter))~~ title operates as an assignment by operation of law.

(2) The department may, ~~((during the four months))~~ and under appropriate circumstances shall, continue to establish the support obligation and to enforce and collect the support debt for a period not to exceed three months from the month following the ~~((fast))~~ month in which such family ceased to receive public assistance ~~((was paid))~~, and thereafter if a non-assistance ~~((application))~~ request for support enforcement services has been made under RCW 74.20.040~~(, pay the family, from collections made on the delinquent support assigned, an amount equal to the monthly amount required by either the superior court order for support or the administrative order entered under RCW 74.20A.055. Nothing in this section shall be construed to permit the department to make such payments for months in which no collections have been made on the delinquent support assigned, nor is the department permitted to make payments for the support of one person from collections on the delinquent support assigned by a different person. The department has, upon making any such payment, by operation of law an additional assignment of the unpaid obligation owed for the month in which the payment is made. The department shall take action to collect the unpaid obligation to reimburse itself and/or the federal government for the payment made)~~ (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657.

Sec. 4. Section 2, chapter 164, Laws of 1971 ex. sess. as amended by section 3, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.020 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(1) "Department" means the state department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services, his designee or authorized representative.

(3) "Dependent child" means any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(4) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including medical expenses, of a dependent child or other person as required by statutes and the common law of this or another state.

(5) "Superior court order" means any judgment, decree, or order of the superior court of the state of Washington, or a court of comparable jurisdiction of another state, establishing the existence of a support obligation and ordering payment of a set or determinable amount of support moneys (or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys) to satisfy the support obligation.

(6) "Administrative order" means any determination, finding, decree, or order for support issued by the department pursuant to RCW 74.20A-.055, or by an agency of another state pursuant to a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support moneys to satisfy the support obligation.

~~((5))~~ (7) "Responsible parent" means a natural parent, adoptive parent, or stepparent of a dependent child.

~~((6))~~ (8) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist and continue as provided for in RCW 26.16.205 until the relationship is terminated by death or dissolution of marriage.

~~((7))~~ (9) "Support moneys" means any moneys or in-kind providings paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

(11) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the commonwealth of Puerto Rico.

Sec. 5. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 40, chapter 260, Laws of 1984 and RCW 74.20A.030 are each amended to read as follows:

The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW ~~((26-16-205))~~ 74.20A.055. Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

No collection shall be made from a parent or other person who is the recipient of public assistance moneys while such person or persons are in such status except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been released from, a state school for the developmentally disabled as defined by chapter 72.33 RCW.

The department may initiate, continue, maintain, or execute action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state, for a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040.

Sec. 6. Section 8, chapter 164, Laws of 1971 ex. sess. as last amended by section 6, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.080 are each amended to read as follows:

Twenty-one days after service of a notice of debt as provided for in RCW 74.20A.040 ~~((stating a support debt accrued and/or accruing based upon subrogation to or assignment of the amount required to be paid under any superior court order))~~, or twenty-one days after service of the notice and finding of financial responsibility or as otherwise appropriate under RCW 74.20A.055, or as appropriate under RCW 74.20A.270, the secretary is hereby authorized to issue to any person, firm, corporation, association, political subdivision or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to

believe that there is in the possession of such person, firm, corporation, association, political subdivision or department of the state property which is due, owing, or belonging to said debtor. The order to withhold and deliver shall state the amount of the support debt accrued, and shall state in summary the terms of RCW 74.20A.090 and 74.20A.100. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision or department of the state upon whom service has been made is hereby required to answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision or department of the state. In the event there is in the possession of any such person, firm, corporation, association, political subdivision or department of the state any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold said property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement of the order to withhold and deliver. Delivery to the secretary shall serve as full acquittance and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter. The foregoing is subject to the exemptions contained in RCW 74.20A.090.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a

concise explanation of the right to petition for a hearing. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for support moneys.

Any person, firm, corporation, association, or political subdivision or department of the state required to withhold and deliver the earnings of a debtor under this action may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 7. Section 10, chapter 164, Laws of 1971 ex. sess. as amended by section 11, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.100 are each amended to read as follows:

Should any person, firm, corporation, association, political subdivision or department of the state fail to make answer to an order to withhold and deliver within the time prescribed herein; or fail or refuse to deliver property pursuant to said order; or after actual notice of filing of a support lien, pay over, release, sell, transfer, or convey real or personal property subject to a support lien to or for the benefit of the debtor or any other person; or fail or refuse to surrender upon demand property distrained under RCW 74.20A.130 or fail or refuse to honor an assignment of wages presented by the secretary, said person, firm, corporation, association, political subdivision or department of the state shall be liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees. If a judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section, the secretary is authorized to issue a notice of debt pursuant to RCW 74.20A.040 and to take appropriate action to collect the debt under this chapter.

Sec. 8. Section 16, chapter 164, Laws of 1971 ex. sess. as amended by section 8, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.160 are each amended to read as follows:

With respect to any arrearages on a support debt assessed under RCW 74.20A.040, 74.20A.055, or 74.20A.270, the secretary may at any time consistent with the income, earning capacity and resources of the debtor, set or reset a level and schedule of payments to be paid upon ~~((the))~~ a support debt. The secretary may, upon petition of the debtor providing sufficient evidence of hardship, after consideration of the standards established in RCW 74.20.270, release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of the responsible parent or parents and minor children in the home of the responsible parent. Nothing in this section shall be construed to require the secretary to take any action which would require collection of less than the obligation for current support required under a superior court order or an administrative order or to take any action which would result in a bar of collection of arrearages from the debtor by reason of the statute of limitations.

Sec. 9. Section 18, chapter 164, Laws of 1971 ex. sess. as amended by section 16, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.180 are each amended to read as follows:

If the secretary finds that the collection of any support debt, accrued under a superior court order, based upon subrogation ~~((to))~~ or an authorization to enforce and collect under RCW 74.20A.030, or assignment of, or a request for support enforcement services to enforce and collect the amount of support ordered by any superior court order is in jeopardy, ~~((he))~~ the secretary may make a written demand under RCW 74.20A.040 for immediate payment of the support debt~~((;))~~ and, upon failure or refusal immediately to pay said support debt, ~~((he))~~ may file and serve liens pursuant to RCW 74.20A.060 and 74.20A.070, without regard to the twenty day period provided for in RCW 74.20A.040: PROVIDED, That no further action under RCW 74.20A.080, 74.20A.130 and 74.20A.140 may be taken until the notice requirements of RCW 74.20A.040 are met.

Sec. 10. Section 20, chapter 164, Laws of 1971 ex. sess. as last amended by section 9, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.200 are each amended to read as follows:

Any person against whose property a support lien has been filed or an order to withhold and deliver has been served pursuant to this chapter may apply for relief to the superior court of the county wherein the property is located ~~((on the basis that no support debt is due and owing))~~. It is the intent of this chapter that jurisdictional and constitutional issues, if any, shall be subject to review, but that administrative remedies be exhausted prior to judicial review.

Sec. 11. Section 23, chapter 164, Laws of 1971 ex. sess. as amended by section 21, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.230 are each amended to read as follows:

No employer shall discharge or discipline an employee or refuse to hire a person for reason that an assignment of earnings has been presented in settlement of a support debt or that a support lien or order to withhold and deliver has been served against said employee's earnings(~~(-PROVIDED; That this provision shall not apply if more than three support liens or orders to withhold and deliver are served upon the same employer within any period of twelve consecutive months)~~). If an employer discharges or disciplines an employee or refuses to hire a person in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

Sec. 12. Section 24, chapter 164, Laws of 1971 ex. sess. as amended by section 22, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.240 are each amended to read as follows:

Any person, firm, corporation, association, political subdivision or department of the state employing a person owing a support debt or obligation, shall honor, according to its terms, a duly executed assignment of earnings presented by the secretary as a plan to satisfy or retire a support debt or obligation. This requirement to honor the assignment of earnings and the assignment of earnings itself shall be applicable whether said earnings are to be paid presently or in the future and shall continue in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented by the secretary shall serve as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to said assignment of earnings. The secretary shall be released from liability for improper receipt of moneys under an assignment of earnings upon return of any moneys so received.

An assignment of earnings presented by the secretary in accordance with this section has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for support moneys.

The employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars from the first disbursement to the department and one dollar for each subsequent disbursement under the assignment of earnings.

Sec. 13. Section 25, chapter 164, Laws of 1971 ex. sess. as last amended by section 20, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.250 are each amended to read as follows:

((By accepting public assistance, the recipient is)) Whenever the secretary has been authorized under RCW 74.20.040 to take action to establish, enforce, and collect support moneys, the custodial parent and the child or children are deemed, without the necessity of signing any document, to have appointed the secretary as his or her true and lawful attorney in fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of said child or children ((as reimbursement for the public assistance moneys previously paid to said recipient)) to effect proper and lawful distribution of the support moneys in accordance with 42 U.S.C. Sec. 657.

Sec. 14. Section 18, chapter 171, Laws of 1979 ex. sess. as amended by section 41, chapter 260, Laws of 1984 and RCW 74.20A.270 are each amended to read as follows:

The secretary may issue a notice of support debt to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who has violated RCW 74.20A.100, who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

The notice shall describe the claim of the department, stating the legal basis for the claim and shall provide sufficient detail to enable the person, firm, corporation, association or political subdivision or officer or agent thereof upon whom service is made to identify the support moneys in issue or the specific violation of RCW 74.20A.100 that has occurred. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue.

The notice may be served by certified mail, return receipt requested, or in the manner of a summons in a civil action. Upon service of the notice all moneys not yet disbursed or spent or like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested.

The notice shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The ~~((notice))~~ answer shall also either acknowledge the department's right to the moneys or request an administrative hearing to contest the allegation that RCW 74.20A.100 has been violated, or determine the rights to ownership of the support moneys in issue. The hearing shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department and shall be a contested case as provided for in chapter 34.04 RCW. The burden of proof to establish ownership of the

support moneys claimed, including but not limited to moneys not yet disbursed or spent, is on the department.

If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW. Any such debtor may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for a hearing upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on any appeal made pursuant to chapter 34.04 RCW. Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a claim, shall be held in trust pending final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

If the hearing is granted it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to the hearing is conditioned upon holding of any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal made to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department. The hearing shall be promptly scheduled within thirty days from the date of receipt of the answer by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

If the debtor fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the amount of support moneys, as claimed in the notice, to be assessed and determined and subject to collection action. Within thirty days of entry of the decision and order the debtor may petition the secretary or the secretary's designee to vacate the decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

The hearing and review process shall be as provided for in RCW 74.20A.055.

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20.040, 74.20A.250, 74.20.320, or 74.20.330. The department may, despite any final order in these proceedings, take action pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds from the recipient, the department may not take collection action in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law. Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section.

NEW SECTION. Sec. 15. A new section is added to chapter 74.20A RCW to read as follows:

A support obligation arising under the statutes or common law of this state binds the responsible parent, present in this state, regardless of the presence or residence of the custodian or children. The obligor is presumed to have been present in the state of Washington during the period for which support is sought until otherwise shown. The department may establish an administrative order pursuant to RCW 74.20A.055 that is based upon any support obligation imposed or imposable under the statutes or common law of any state in which the obligor was present during the period for which support is sought.

NEW SECTION. Sec. 16. Section 3, chapter 322, Laws of 1959, section 2, chapter 206, Laws of 1963 and RCW 74.20.020 are each repealed.

NEW SECTION. Sec. 17. The department of social and health services office of support enforcement is the designated agency in Washington state to administer the child support program under Title IV-D of the federal social security act and is responsible for providing necessary and mandated support enforcement services and ensuring that such services are

available state-wide. It is the intent of the legislature to enhance the total child support program in this state by granting the office of support enforcement administrative powers and flexibility. If the exercise of this authority is used to supplant or replace the role of the prosecuting attorneys for reasons other than economy or federal compliance, the Washington association of prosecuting attorneys shall report to the committees on judiciary of the senate and house of representatives.

Passed the House April 23, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 277

[Substitute House Bill No. 84]

SCHOOL DISTRICTS AND EDUCATIONAL SERVICE DISTRICTS—SELF-FUNDING OF EMPLOYEE LOSS OF TIME AND HEALTH BENEFIT PLANS

AN ACT Relating to local government insurance; amending RCW 48.62.010, 48.62.030, 48.62.070, 48.62.080, 48.62.100, 48.62.110, 28A.58.420, and 48.01.050; adding a new section to chapter 48.62 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.010 are each amended to read as follows:

The legislature finds that local governmental entities in this state are experiencing a trend of vastly increased insurance premiums for the renewal of identical insurance policies, that fewer insurance carriers are willing to provide local governmental entities with insurance coverage, and that some local governmental entities are unable to obtain desired insurance coverage.

It is the intent of this legislation to clearly provide for the authority of local governmental entities to individually self-insure, self-fund under section 3 of this 1985 act, purchase individual insurance coverage, and obtain risk management, claims, and administrative services. It is also the intent of this legislation to grant local governmental entities the maximum flexibility to enter into agreements with each other to provide joint programs, which include programs for joint self-funding under section 3 of this 1985 act, the joint purchasing of insurance, joint self-insuring, and joint contracting for or hiring personnel to provide risk management, claims, and administrative services.

Sec. 2. Section 3, chapter 256, Laws of 1979 ex. sess. as amended by section 17, chapter 59, Laws of 1983 and RCW 48.62.030 are each amended to read as follows:

The governing body of any local governmental entity may, as an alternative or in addition to the establishment of a self-funded plan, a self-insurance reserve, or the purchasing of insurance, contract for or hire

personnel to provide risk management, claims, and administrative services. Moneys made available and moneys expended by school districts and educational service districts for the purpose of implementing any provision of RCW 48.62.010 through 48.62.120 or RCW 36.16.138 shall be subject to such rules of the superintendent of public instruction as the superintendent may adopt governing the budgeting and accounting of such plan or reserves.

NEW SECTION. Sec. 3. A new section is added to chapter 48.62 RCW to read as follows:

(1) School districts and educational service districts may, either individually or in combination with other such districts, self-fund their employees' loss of time and health benefit plans if (1) the plans, their manner of operation, and the managers meet standards established by the superintendent of public instruction; and (2) the plan is fully covered by an excess loss insurance policy issued by an insurer which has a certificate authorizing it to provide insurance in this state. Self-funded plans shall also comply with the mandatory coverage provisions of chapter 48.44 RCW. Claims under such plans shall be administered by competent, disinterested third parties acting independently of all school districts and their personnel. Such a plan or any trust established thereunder shall not be deemed to be an insurance company and shall not be deemed to be engaged in the business of insurance for purposes of the insurance code.

(2) Any plan authorized by this section is not subject to chapter 48.42 RCW and shall be subject to audit by the state auditor.

Sec. 4. Section 7, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.070 are each amended to read as follows:

The assets of any organization of local governmental entities that is organized under RCW 48.62.040 or section 3 of this 1985 act which is established for the purpose of jointly self-funding or self-insuring may, pursuant to RCW 48.62.080, be invested only in the following classes of securities and investments:

(1) Savings or time accounts in banks, trust companies, and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal deposit insurance corporation;

(2) Accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation;

(3) Investment deposits in banks, trust companies, mutual savings banks, and savings and loan associations, which are doing business in this state, available for investment and secured by collateral in accordance with the provisions of chapter 39.58 RCW;

(4) Certificates, notes, bonds, or other obligations or securities of the United States or any of its agencies, or of any corporation wholly owned by the government of the United States;

(5) Federal home loan bank notes and bonds, federal land bank bonds, and federal national mortgage association notes, debentures, and guaranteed certificates of participation, or the obligations of any other government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(6) Direct and general obligation bonds and warrants of the state of Washington or any other state of the United States;

(7) Direct and general obligation bonds and warrants of any local governmental entity of this state having the power to levy general taxes which are payable from general ad valorem taxes;

(8) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

(9) Motor vehicle fund warrants when authorized by agreement between the state finance committee and the state transportation commission requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction; and

(10) Bonds, securities, and obligations which are designated to be authorized security for all public deposits pursuant to RCW 35.58.510, 35.81.110, 35.82.220, 39.60.030, 39.60.040, and 54.24.120.

Sec. 5. Section 8, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.080 are each amended to read as follows:

(1) Any organization of local governmental entities that is organized under RCW 48.62.040 which is established for the purpose of jointly self-insuring may invest all or a portion of its assets by one or more of the following methods:

((1)) (a) Directly invest such assets itself; or

((2)) (b) Deposit such assets with the treasurer of any county within whose territorial limits any of its member local governmental entities lies, to be invested by such treasurer for the organization.

(2) Any organization of school districts or educational service districts that is organized under section 3 of this 1985 act which is established for the purpose of jointly self-funding may invest all or a portion of its assets by depositing such assets with the treasurer of any county within whose territorial limits any of its member districts lies, to be invested by such treasurer for the organization.

Sec. 6. Section 10, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.100 are each amended to read as follows:

Any organization of local governmental entities that is organized under RCW 48.62.040 or section 3 of this 1985 act shall have the flexibility to perform its functions and at its option may, if such functions and actions are within its purview as established by the agreement or contract adopted pursuant to chapter 39.34 RCW that lists the powers and functions of the organization, do any of the following:

(1) Contract or otherwise provide for risk management and loss control services;

(2) Contract or otherwise provide legal counsel for the defense of claims and/or other legal services;

(3) Consult with the state insurance commissioner and/or the state risk manager;

(4) Jointly purchase insurance coverage in such form and amount as the organization's participants may by contract agree; and

(5) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

Sec. 7. Section 11, chapter 256, Laws of 1979 ex. sess. and RCW 48-.62.110 are each amended to read as follows:

Any organization of local governmental entities that is organized under RCW 48.62.040 or section 3 of this 1985 act may provide for private meetings to consider litigation and settlement of claims when it appears that public discussion of these matters would impair the organization's ability to conduct its business effectively.

Notwithstanding any provision to the contrary contained in the public disclosure act, chapter 42.17 RCW, in a claim or action against the state or any local governmental entity, no person shall be entitled to discover that portion of funds or liability reserve established for purposes of satisfying a claim or cause of action, except that the reserve is discoverable in any supplemental or ancillary proceeding to enforce a judgment.

Sec. 8. Section 28A.58.420, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 255, Laws of 1977 ex. sess. and RCW 28A-.58.420 are each amended to read as follows:

(1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, self-insurance, or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds shall be available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district. The premiums due on such protection or insurance shall be borne by the assenting school board member or student: PROVIDED, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or

school district. All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57 and 18.71 RCW.

Sec. 9. Section .01.05, chapter 79, Laws of 1947 as last amended by section 13, chapter 256, Laws of 1979 ex. sess. and RCW 48.01.050 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals, as defined in RCW 70.39.020(3), which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund shall not be deemed an "insurer" under this code. Two or more local governmental entities, as defined in RCW 48.62.020, which pursuant to RCW 48.62.040, section 3 of this 1985 act, or any other provision of law join together and organize to form an organization for the purpose of jointly self-insuring or self-funding shall not be deemed an "insurer" under this code.

NEW SECTION. Sec. 10. This act applies retrospectively to group self-funded plans formed on or after January 1, 1983.

Passed the House March 19, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 278

[Substitute Senate Bill No. 3332]

SCHOOL DISTRICTS AND EDUCATIONAL SERVICE DISTRICTS—JOINT SELF-INSURANCE—AUTHORITY MODIFIED

AN ACT Relating to local school district and educational service district insurance transactions; and amending RCW 48.62.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.040 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the governing body of any one or more local governmental entities may, as an alternative or in addition to exercising any one or more of the powers granted in RCW 48.62.030 and 36.16.138, as now or hereafter amended, or any other provision of law, form together into or join a pool or organization for the joint purchasing of insurance, and/or joint self-insuring, and/or joint hiring or

contracting for risk management services to the same extent that they may individually purchase insurance, self-insure, or hire or contract for risk management services(~~(-PROVIDED, That)~~).

(2)(a) No organization of local governmental entities, other than local school districts and educational service districts, that is organized under ((RCW 48.62.040)) this section for the purpose of self-insuring shall provide any self-insurance other than liability insurance. For purposes of this section, liability insurance shall include but not be limited to coverage for claims arising from the tortious or negligent conduct of the local government entity, its officers, employees, or agents thereof, or any error or omission on the part of said local government entity, its officers, employees or agents thereof as a result of which a claim may be made against the local government entity.

(b) Local school districts and educational service districts may not organize under this section for the purpose of providing joint self-insured life, health, health care, accident, disability and salary protection or insurance, or any combination thereof, to the district employees, students, directors, or any of their dependents.

(3) The agreement to form such a pooling arrangement shall be made under chapter 39.34 RCW. Any pool or organization authorized to be formed by this section shall be subject to audit by the state auditor.

Passed the Senate April 15, 1985.

Passed the House April 9, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 279

[Engrossed Substitute House Bill No. 204]
PAROLE BOARD PHASE-OUT DELAYED

AN ACT Relating to the board of prison terms and paroles; amending RCW 9.95.009; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 24, chapter 137, Laws of 1981 as amended by section 8, chapter 192, Laws of 1982 and RCW 9.95.009 are each amended to read as follows:

(1) On July 1, 1988, the board of prison terms and paroles shall cease to exist. Prior to that time, the board's membership shall be reduced as follows: (a) On July 1, ((1985)) 1986, the board shall be reduced to five members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve. (b) On July 1, ((1986)) 1987, the board shall be reduced to three members. This reduction shall

take place by the expiration, on that date, of the two terms having the least time left to serve.

(2) Prior to its expiration and after July 1, 1984, the board shall continue its functions with respect to persons incarcerated for crimes committed prior to July 1, 1984. The board shall consider the standard ranges and standards adopted pursuant to RCW 9.94A.040, and shall attempt to make decisions reasonably consistent with those ranges and standards.

(3) On July 1, 1988, all documents, records, files, equipment, and other tangible property of the board of prison terms and paroles shall be delivered to the custody of the department of corrections.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill number, is not provided in the omnibus appropriations act enacted before July 1, 1985, this act shall be null and void.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 21, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 280

[Engrossed Substitute House Bill No. 199]

FARM LABOR

AN ACT Relating to farm labor; amending RCW 19.30.010, 19.30.020, 19.30.030, 19.30.040, 19.30.050, 19.30.060, 19.30.070, 19.30.110, 19.30.120, and 19.30.130; adding new sections to chapter 19.30 RCW; repealing RCW 19.30.100, 19.30.140, and 19.30.080; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 392, Laws of 1955 and RCW 19.30.010 are each amended to read as follows:

As used in this chapter:

(1) "Person" includes any individual, firm, partnership, association ((or)), corporation, or unit or agency of state or local government.

(2) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, ~~((employs workers to render personal services in connection with the production of any farm products, to, for, or under the direction of an employer engaged in the growing, producing or harvesting of farm products, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing, producing or harvesting of farm products or who provides in connection with recruiting, soliciting, supplying or hiring workers engaged in the growing, producing or harvesting of farm~~

products, one or more of the following services: ~~Furnishes board, lodging or transportation for such workers, supervises, times, checks, counts, sizes, or otherwise directs or measures their work, or disburses wage payments to such persons~~) performs any farm labor contracting activity.

(3) "Farm labor contracting activity" means recruiting, soliciting, employing, supplying, transporting, or hiring agricultural employees.

(4) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(5) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(6) This chapter shall not apply to employees of the employment security department acting in their official capacity or their agents, nor to any common carrier or full time regular employees thereof while transporting agricultural employees, nor to any person who performs any of the ((above)) services enumerated in subsection (3) of this section only within the scope of his or her regular employment for ((the)) one agricultural employer ((engaged in the growing, producing or harvesting of farm products)) on whose behalf he or she is so acting, unless he or she is receiving a commission or fee, which commission or fee is determined by the number of workers recruited, or to a nonprofit corporation or organization which performs the same functions for its members(~~:- PROVIDED, HOWEVER, That said~~)). Such nonprofit corporation or organization shall be one in which:

(a) None of its directors, officers, or employees are deriving any profit beyond a reasonable salary for services performed in its behalf.

(b) Membership dues and fees are used solely for the maintenance of the association or corporation.

~~((3))~~ (7) "Fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by a farm labor contractor.

(b) Any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described ~~((above))~~ in subsection (3) of this section, and shall include the difference between any amount received or to be received by him, and the amount paid out by him for or in connection with the rendering of such services.

~~((4))~~ (8) "Director" as used in this chapter means the director of the department of labor and industries of the state of Washington.

Sec. 2. Section 2, chapter 392, Laws of 1955 and RCW 19.30.020 are each amended to read as follows:

No person shall act as a farm labor contractor until a license to do so has been issued to him or her by the director, and unless such license is in full force and effect and is in ~~((his))~~ the contractor's possession. The director shall, by regulation, provide a means of issuing duplicate licenses in case of loss of the original license or any other appropriate instances. The director shall issue, on a monthly basis, a list of currently licensed farm labor contractors.

Sec. 3. Section 3, chapter 392, Laws of 1955 and RCW 19.30.030 are each amended to read as follows:

The director shall not issue to any person a license to act as a farm labor contractor until:

(1) Such person has executed a written application ~~((therefor))~~ on a form prescribed by the director, subscribed and sworn to by the applicant, and containing (a) a statement by the applicant of all facts required by the director concerning the applicant's character, competency, responsibility, and the manner and method by which he or she proposes to conduct ~~((his))~~ operations as a farm labor contractor if such license is issued, and (b) the names and addresses of all persons financially interested, either as partners, stockholders, associates ~~((or))~~, profit sharers, or providers of board or lodging to agricultural employees in the proposed operation as a labor contractor, together with the amount of their respective interests;

(2) The director, after investigation, is satisfied as to the character, competency, and responsibility of the applicant;

(3) The applicant has paid to the director a license fee of ~~((ten dollars, which shall accompany the license application and which shall be refunded to the applicant in the event a license is denied))~~ : (1) Thirty-five dollars in the case of a farm labor contractor not engaged in forestation or reforestation, or (2) one hundred dollars in the case of a farm labor contractor engaged in forestation or reforestation or such other sum as the director finds necessary, and adopts by rule, for the administrative costs of evaluating applications;

(4) The applicant has filed proof satisfactory to the director of the existence of a policy of insurance with any insurance carrier authorized to do business in the state of Washington in an amount satisfactory to the director, which insures ~~((said licensee))~~ the contractor against liability for damage to persons or property arising out of the ~~((licensee's))~~ contractor's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with ~~((his))~~ the contractor's business, activities, or operations as a farm labor contractor;

(5) The applicant has filed a surety bond or other security which meets the requirements set forth in section 4 of this 1985 act;

(6) The applicant executes a written statement which shall be subscribed and sworn to and shall contain the following declaration:

"With regards to any action filed against me concerning my activities as a farm labor contractor, I appoint the director of the Washington department of labor and industries as my lawful agent to accept service of summons when I am not present in the jurisdiction in which the action is commenced or have in any other way become unavailable to accept service"; and

(7) The applicant has stated on his or her application whether or not his or her contractor's license or the license of any of his or her agents, partners, associates, stockholders, or profit sharers has ever been suspended, revoked, or denied by any state or federal agency, and whether or not there are any outstanding judgments against him or her or any of his or her agents, partners, associates, stockholders, or profit sharers in any state or federal court arising out of activities as a farm labor contractor.

Sec. 4. Section 4, chapter 392, Laws of 1955 and RCW 19.30.040 are each amended to read as follows:

(1) The director ((may)) shall require the deposit of a surety bond by any person ((seeking a license)) acting as a farm labor contractor under this chapter to insure compliance with the provisions of this chapter. Such bond shall be in an amount specified by the director ((and)) in accordance with such criteria as the director adopts by rule but shall not be less than five thousand dollars. The bond shall be payable to the state of Washington and shall be conditioned that the ((applicant)) contractor will comply with this chapter and will pay all sums legally owing to any person ((when the farm labor contractor or his agents have received such sums)) recruited, solicited, employed, supplied, or hired by the contractor, or the contractor's agent or subcontractor, and will pay all damages ((occasioned to any person by failure so to do, or by any violation of the provisions)) arising out of the violation of any provision of this chapter, or false statements or misrepresentations made in the procurement of ((his)) the contractor's license. The aggregate liability of the surety upon such bond for all claims which may arise thereunder shall not exceed the face amount of the bond.

(2) The amount of the bond may be raised or additional security required by the director, upon his or her own motion or upon petition to the director by any person, when it is shown that the security or bond is insufficient to satisfy the contractor's potential liability for the licensed period.

(3) No surety insurer may provide any bond, undertaking, recognition, or other obligation for the purpose of securing or guaranteeing any act, duty, or obligation, or the refraining from any act with respect to a contract using the services of a farm labor contractor unless the farm labor contractor has made application for or has a valid license issued under section 3 of this 1985 act at the time of issuance of the bond, undertaking, recognition, or other obligation.

(4) During the period for which a bond is executed, the bond may not be canceled or otherwise terminated, unless alternative security arrangements are approved by the director.

(5) In lieu of the surety bond required by this section, the contractor may file with the director a deposit consisting of cash or other security acceptable to the director. The deposit shall not be less than five thousand dollars in value. The security deposited with the director in lieu of the surety bond shall be returned to the contractor at the expiration of three years after the farm labor contractor's license has expired or been revoked if no legal action has been instituted against the contractor or on the security deposit at the expiration of the three years.

(6) If a contractor has deposited a bond with the director and has failed to comply with the conditions of the bond as provided by this section, and has departed from this state, service may be made upon the surety as prescribed in RCW 4.28.090.

Sec. 5. Section 5, chapter 392, Laws of 1955 and RCW 19.30.050 are each amended to read as follows:

A license to operate as a farm labor contractor shall be denied:

(1) To any person who sells or proposes to sell intoxicating liquors in a building or on premises where he or she operates or proposes to operate as a farm labor contractor, or

(2) To a person whose license has been revoked within three years from the date of application.

Sec. 6. Section 6, chapter 392, Laws of 1955 and RCW 19.30.060 are each amended to read as follows:

Any person may protest the grant or renewal of a license under this section. The director may revoke, suspend, or refuse to issue or renew any license when it is shown that:

(1) The ~~((licensee))~~ farm labor contractor or any agent of the ~~((licensee))~~ contractor has violated or failed to comply with any of the provisions of this chapter;

(2) The ~~((licensee))~~ farm labor contractor has made any misrepresentations or false statements in his or her application for a license;

(3) The conditions under which the license was issued have changed or no longer exist;

(4) The ~~((licensee))~~ farm labor contractor, or any agent of the ~~((licensee))~~ contractor, has violated or wilfully aided or abetted any person in the violation of, or failed to comply with, any law of the state of Washington regulating employment in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business activities, or operations of the ~~((licensee))~~ contractor in his or her capacity as a farm labor contractor; ~~((or))~~

(5) The ((licensee)) farm labor contractor or any agent of ((licensee)) the contractor has in recruiting farm labor solicited or induced the violation of any then existing contract of employment of such laborers; or

(6) The farm labor contractor or any agent of the contractor has an unsatisfied judgment against him or her in any state or federal court, arising out of his or her farm labor contracting activities.

Sec. 7. Section 7, chapter 392, Laws of 1955 and RCW 19.30.070 are each amended to read as follows:

Each license shall contain, on the face thereof:

(1) The name and address of the licensee and the fact that he or she is licensed to act as a farm labor contractor for the period upon the face of the license only;

(2) The number, date of issuance, and date of expiration of the license;

(3) The amount of the surety bond deposited by the licensee; ~~((and))~~

(4) The fact that the license may not be transferred or assigned; and

(5) A statement that the licensee is or is not licensed to transport workers.

NEW SECTION. Sec. 8. A new section is added to chapter 19.30 RCW to read as follows:

Farm labor contractors may hold either a one-year license or a two-year license, at the director's discretion.

The one-year license shall run to and include the 31st day of December next following the date thereof unless sooner revoked by the director. A license may be renewed each year upon the payment of the annual license fee, but the director shall require that a new application and a renewed bond be submitted.

The two-year license shall run to and include the 31st day of December of the year following the year of issuance unless sooner revoked by the director. This license may be renewed every two years under the same terms as the one-year license, except that a farm labor contractor possessing a two-year license shall renew his or her bond each year and file an application on which he or she shall disclose all information required by RCW 19.30.030 (1)(b), (4), and (7).

Sec. 9. Section 11, chapter 392, Laws of 1955 and RCW 19.30.110 are each amended to read as follows:

Every ~~((licensee must))~~ person acting as a farm labor contractor shall:

(1) Carry ~~((his))~~ a current farm labor contractor's license ((with him)) at all times and exhibit ~~((the same))~~ it to all persons with whom ~~((he))~~ the contractor intends to deal in ~~((his))~~ the capacity ~~((as))~~ of a farm labor contractor prior to so dealing.

(2) Disclose to every person with whom he or she deals in the capacity of a farm labor contractor the amount of his or her bond and the existence and amount of any claims against the bond.

(3) File at the United States post office serving the address of the ((licensee)) contractor, as noted on the face of ((his)) the farm labor contractor's license, a correct change of address immediately upon each occasion ((said licensee)) the contractor permanently moves his or her address, and notify the director within ten days after an address change is made.

((3)) (4) Promptly when due, pay or distribute to the individuals entitled thereto all moneys or other things of value entrusted to the ((licensee)) contractor by any third person for such purpose.

((4)) (5) Comply ((on his part)) with the terms and provisions of all legal and valid agreements and contracts entered into between ((licensee)) the contractor in ((his)) the capacity ((as)) of a farm labor contractor and third persons.

((5)) (6) File information regarding ((his)) work offers with the nearest employment service office, such information to include wages and work to be performed and any other information prescribed by the director.

(7) On a form prescribed by the director, furnish to each worker, at the time of hiring, recruiting, soliciting, or supplying, whichever occurs first, a written statement in English and any other language common to workers who are not fluent or literate in English that contains a description of:

(a) The compensation to be paid and the method of computing the rate of compensation;

(b) The terms and conditions of any bonus offered, including the manner of determining when the bonus is earned;

(c) The terms and conditions of any loan made to the worker;

(d) The conditions of any transportation, housing, board, health, and day care services or any other employee benefit to be provided by the farm labor contractor or by his or her agents, and the costs to be charged for each of them;

(e) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates thereof, and the crops on which and kinds of activities in which the worker may be employed;

(f) The terms and conditions under which the worker is furnished clothing or equipment;

(g) The place of employment;

(h) The name and address of the owner of all operations, or the owner's agent, where the worker will be working as a result of being recruited, solicited, supplied, or employed by the farm labor contractor;

(i) The existence of a labor dispute at the worksite;

(j) The name and address of the farm labor contractor;

(k) The existence of any arrangements with any owner or agent of any establishment at the place of employment under which the farm labor contractor is to receive a fee or any other benefit resulting from any sales by such establishment to the workers; and

(l) The name and address of the surety on the contractor's bond and the workers' right to claim against the bond.

(8) Furnish to the worker each time the worker receives a compensation payment from the farm labor contractor, a written statement itemizing the total payment and the amount and purpose of each deduction therefrom, hours worked, rate of pay, and pieces done if the work is done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C. Secs. 351 through 401) or related federal or state law, a written statement of any applicable prevailing wage.

(9) With respect to each worker recruited, solicited, employed, supplied, or hired by the farm labor contractor:

(a) Make, keep, and preserve for three years a record of the following information:

(i) The basis on which wages are paid;

(ii) The number of piecework units earned, if paid on a piecework basis;

(iii) The number of hours worked;

(iv) The total pay period earnings;

(v) The specific sums withheld and the purpose of each sum withheld; and

(vi) The net pay; and

(b) Provide to any other farm labor contractor and to any user of farm labor for whom he or she recruits, solicits, supplies, hires, or employs workers copies of all records, with respect to each such worker, which the contractor is required by this chapter to make, keep, and preserve. The recipient of such records shall keep them for a period of three years from the end of the period of employment. When necessary to administer this chapter, the director may require that any farm labor contractor provide the director with certified copies of his or her payroll records for any payment period.

The record-keeping requirements of this chapter shall be met if either the farm labor contractor or any user of the contractor's services makes, keeps, and preserves for the requisite time period the records required under this section, and so long as each worker receives the written statements specified in subsection (8) of this section.

Sec. 10. Section 12, chapter 392, Laws of 1955 and RCW 19.30.120 are each amended to read as follows:

No ((licensee)) person acting as a farm labor contractor shall:

(1) Make any misrepresentation or false statement in ((his)) an application for a license.

(2) Make or cause to be made, to any person, any false, fraudulent, or misleading representation, or publish or circulate or cause to be published or circulated any false, fraudulent, or misleading information concerning

the terms or conditions or existence of employment at any place or places, or by any person or persons, or of any individual or individuals.

(3) Send or transport any worker to any place where the farm labor contractor knows a strike or lockout exists.

(4) Do any act in ~~((his))~~ the capacity ~~((as))~~ of a farm labor contractor, or cause any act to be done, which constitutes a crime involving moral turpitude under any law of the state of Washington.

Sec. 11. Section 14, chapter 392, Laws of 1955 and RCW 19.30.130 are each amended to read as follows:

(1) The director ~~((may promulgate)) shall adopt~~ rules ~~((and regulations))~~ not inconsistent with this chapter for the purpose of enforcing and administering this chapter.

(2) The director shall investigate and attempt to adjust equitably controversies between farm labor contractors and their workers with respect to claims arising under this chapter.

NEW SECTION. Sec. 12. A new section is added to chapter 19.30 RCW to read as follows:

The director or any other person may bring suit in any court of competent jurisdiction to enjoin any person from using the services of an unlicensed farm labor contractor or to enjoin any person acting as a farm labor contractor in violation of this chapter, or any rule adopted under this chapter, from committing future violations. The court may award to the prevailing party costs and disbursements and a reasonable attorney fee.

NEW SECTION. Sec. 13. A new section is added to chapter 19.30 RCW to read as follows:

No farm labor contractor or agricultural employer may discharge or in any other manner discriminate against any employee because:

(1) The employee has made a claim against the farm labor contractor or agricultural employer for compensation for the employee's personal services.

(2) The employee has caused to be instituted any proceedings under or related to section 12 of this act.

(3) The employee has testified or is about to testify in any such proceedings.

(4) The employee has discussed or consulted with anyone concerning the employee's rights under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 19.30 RCW to read as follows:

Any person who knowingly uses the services of an unlicensed farm labor contractor shall be personally, jointly, and severally liable with the person acting as a farm labor contractor to the same extent and in the same manner as provided in this chapter. In making determinations under this subsection, any user may rely upon either the license issued by the director

to the farm labor contractor under section 3 of this act or the director's representation that such contractor is licensed as required by this chapter.

NEW SECTION. Sec. 15. A new section is added to chapter 19.30 RCW to read as follows:

(1) In addition to any criminal penalty imposed under RCW 19.30.150, the director may assess against any person who violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.

(2) The person shall be afforded the opportunity for a hearing, upon request to the director made within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.04 RCW.

(3) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director shall refer the matter to the state attorney general, who shall recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(4) Without regard to any other remedy otherwise provided in this chapter, the director may bring suit upon the surety bond filed by the farm labor contractor on behalf of any worker whose rights under this chapter have been violated by the contractor. Such action may be commenced in any court of competent jurisdiction. In any such action, the notice and service requirements set forth in section 16(3) of this act shall be complied with.

NEW SECTION. Sec. 16. A new section is added to chapter 19.30 RCW to read as follows:

(1) After filing a notice of a claim with the director, in addition to any other penalty provided by law, any person aggrieved by a violation of this chapter or any rule adopted under this chapter may bring suit in any court of competent jurisdiction of the county in which the claim arose, or in which either the plaintiff or respondent resides, without regard to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided in this chapter. No such action may be commenced later than three years after the date of the violation giving rise to the right of action. In any such action the court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.

(2) In any action under subsection (1) of this section, if the court finds that the respondent has violated this chapter or any rule adopted under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of five hundred dollars per plaintiff per violation, whichever is greater, or other equitable relief.

(3) Without regard to any other remedy otherwise provided in this chapter, any person having a claim against the farm labor contractor for any violation of this chapter may bring suit upon the surety bond or security deposit filed by the contractor pursuant to RCW 19.30.040, in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides. An action upon the bond or security deposit shall be commenced by serving and filing the complaint within three years from the date of expiration or cancellation of the bond, or in the case of a security deposit, within three years of the date of the expiration or revocation of the license. A copy of the complaint in any such action shall be served upon the director at the time of commencement of the action and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the farm labor contractor and the surety for suit upon the bond and the director shall transmit the complaint or a copy thereof to the contractor at the address listed in his or her application and to the surety within forty-eight hours after it has been received. The surety upon the bond may, upon notice to the director and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated. A claimant against the bond or security deposit shall be entitled to damages under subsection (2) of this section. If the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, the claims shall be satisfied from the bond in the following order:

- (a) Wages, including employee benefits;
- (b) Damages imposed under subsection (2) of this section;
- (c) Any costs and attorney's fees claimant may be entitled to recover.

If any final judgment impairs the liability of the surety upon the bond so furnished so that there is not in effect a bond undertaking in the full amount prescribed by the director, the director shall suspend the license of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims has been furnished. If such bond becomes fully impaired, a new bond must be furnished.

If the farm labor contractor has filed other security with the director in lieu of a surety bond, any person having an unsatisfied final judgment against the contractor for any violation of this chapter may execute upon the security deposit held by the director by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director. Upon the receipt of service of such certified copy, the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director,

but the director shall have no liability for payment in excess of the amount of the deposit.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) Section 10, chapter 392, Laws of 1955 and RCW 19.30.100;
- (2) Section 15, chapter 392, Laws of 1955, section 20, chapter 199, Laws of 1969 ex. sess. and RCW 19.30.140; and
- (3) Section 8, chapter 392, Laws of 1955 and RCW 19.30.080.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. This 1985 act shall take effect January 1, 1986.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 281

[Engrossed Substitute House Bill No. 543]

CONSOLIDATION OF CITIES

AN ACT Relating to cities and towns; amending RCW 35.10.217, 35.10.240, 35.10.265, 35.10.300, 35.10.310, 35.10.315, 35.10.317, 35.10.320, 35.10.331, 35.14.010, 35.14.020, 35A-.01.040, and 36.93.090; reenacting RCW 35A.29.090; adding new sections to chapter 35.10 RCW; adding a new section to chapter 35A.05 RCW; adding a new section to chapter 43.21C RCW; repealing RCW 35.10.200, 35.10.211, 35.10.215, 35.10.220, 35.10.230, 35.10.245, 35-.10.250, 35.10.260, 35A.05.010, 35A.05.020, 35A.05.030, 35A.05.040, 35A.05.050, 35A.05-.060, 35A.05.070, 35A.05.080, 35A.05.090, 35A.05.100, 35A.05.110, 35A.05.120, 35A.05.130, 35A.05.140, 35A.05.150, 35A.05.160, and 35A.05.170; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this chapter is to establish clear and uniform provisions of law governing the consolidation of all types and classes of cities.

NEW SECTION. Sec. 2. As used in this chapter, the term "city" means any city or town.

NEW SECTION. Sec. 3. Two or more contiguous cities located in the same or different counties may consolidate into one city by proceedings in conformity with the provisions of this chapter. When cities are separated by water and/or tide or shore lands they shall be deemed contiguous for all the purposes of this chapter and, upon a consolidation of such cities under the provisions of this chapter, any such intervening water and/or tide or shore

lands shall become a part of the consolidated city. The consolidated city shall become a noncharter code city operating under Title 35A RCW.

NEW SECTION. Sec. 4. The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may be caused by the adoption of a joint resolution, by a majority vote of each city legislative body, seeking consolidation of such contiguous cities. The joint resolution shall provide for submission of the question to the voters at the next general municipal election, if one is to be held more than ninety days but not more than one hundred eighty days after the passage of the joint resolution, or shall call for a special election to be held for that purpose at the next special election date, as specified in RCW 29.13.020, that occurs ninety or more days after the passage of the joint resolution. The legislative bodies of the cities also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

NEW SECTION. Sec. 5. The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may also be caused by the filing of a petition with the legislative body of each such city, signed by the voters of each city in number equal to not less than ten percent of the votes cast at the last general municipal election therein, seeking consolidation of such contiguous cities. A copy of the petition shall be forwarded immediately by each city to the auditor of the county or counties within which that city is located.

The county auditor or auditors shall determine the sufficiency of the signatures in each petition within ten days of receipt of the copies and immediately notify the cities proposed to be consolidated of the sufficiency. If each of the petitions is found to have sufficient valid signatures, the auditor or auditors shall call a special election at which the question of whether such cities shall consolidate shall be submitted to the voters of each of such cities. If a general election is to be held more than ninety days but not more than one hundred eighty days after the filing of the last petition, the question shall be submitted at that election. Otherwise the question shall be submitted at a special election to be called for that purpose at the next special election date, as specified in RCW 29.13.020, that occurs ninety or more days after the date when the last petition was filed.

If each of the petitions is found to have sufficient valid signatures, the auditor or auditors also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

Petitions shall conform with the requirements for form prescribed in RCW 35A.01.040, except different colored paper may be used on petitions circulated in the different cities. A legal description of the cities need not be included in the petitions.

NEW SECTION. Sec. 6. A joint resolution or petition shall prescribe the form or plan of government of the proposed consolidated city, or shall provide that a ballot proposition to determine the form or plan of government shall be submitted to the voters of the cities proposed to be consolidated. The plans or forms of government include: Mayor/council, council/manager, and commission. If a commission form or plan of government is prescribed or chosen by the voters, the commission shall be subject to chapter 35.17 RCW and the noncharter code city shall be assumed to have had a commission plan or form of government prior to its becoming a noncharter code city, as provided in RCW 35A.02.130. However, three commissioners would be elected at the election provided in section 11 of this act.

NEW SECTION. Sec. 7. A joint resolution or a petition may contain a proposal that a general obligation indebtedness of one or more of the cities proposed to be consolidated shall be assumed by the proposed consolidated city, in which event, the joint resolution or petition shall specify the improvement or service for which such general obligation indebtedness was incurred and state the amount of any such indebtedness then outstanding and the rate of interest payable thereon.

NEW SECTION. Sec. 8. The county legislative authority, or the county legislative authorities jointly, shall set the date, time, and place for one or more public meetings on the proposed consolidation, and name a person or persons to chair the meetings. There shall be at least one public meeting in each county in which one or more of the cities proposed to be consolidated is located. A county legislative authority may name the members of the boundary review board, if one exists in the county, to chair one or more of the public meetings held in that county. In addition to any meeting held by the county, a boundary review board, if requested by a majority of the county legislative authority, may hold a public meeting on proposed consolidation of cities. The meeting shall be limited to receiving comments and written materials from citizens and city officials on the proposed consolidation of that portion of cities located in the county which the boundary review board serves. The record and proceedings of the boundary review board are supplemental and advisory to the consolidation of cities. If a boundary review board meets pursuant to this section, the boundary review board may include, as part of its record, comments pertaining to the probable environmental impact of the proposed consolidation. The record of the meeting and advisory comments of the board, if any, must be filed with the county legislative authority no later than twenty days before the date of the election at which the question of consolidating the cities is presented to the voters. The boundary review board shall not have any authority or jurisdiction on city consolidations under chapter 36.93 RCW. A public meeting shall be held at each specified date, time, and place. The public meetings of the county or the boundary review board shall be held at least

twenty but not more than forty-five days before the date of the election at which the question of consolidating the cities is presented to the voters.

At each public meeting, each city proposed to be consolidated shall present testimony and written materials concerning the following topics: (1) The rate or rates of property taxes imposed by the city, and the purposes of these levies; (2) the excise taxes imposed by the city, including the tax bases and rates; and (3) the indebtedness of the city, including general indebtedness, both voter-approved and nonvoter-approved, as well as the city's special indebtedness, such as revenue bond indebtedness. Any interested person, including the officials of the cities proposed to be consolidated, may present information concerning the proposed consolidation and testify for or against the proposed consolidations.

Notice of each public meeting shall be published by the county within whose boundaries the public meeting is held in the normal manner notices of county hearings are published.

NEW SECTION. Sec. 9. Ballot titles on the questions shall be prepared as provided in RCW 35A.29.120. If a proposal for assumption of indebtedness is to be submitted to the voters of a city in which the indebtedness did not originate, the proposal shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the words "For Assumption of Indebtedness" and "Against Assumption of Indebtedness" or words equivalent thereto. If the question of the form or plan of government is to be submitted to the voters, the question shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the option of a voter to select one of the three forms or plans of government.

NEW SECTION. Sec. 10. The county canvassing board in each county involved shall canvass the returns in each election. The votes cast in each of such cities shall be canvassed separately, and the statement shall show the whole number of votes cast, the number of votes cast in each city for consolidation, and the number of votes cast in each city against such consolidation. If a proposal for assumption or indebtedness was voted upon in a city in which the indebtedness did not originate, the statement shall show the number of votes cast in such a city for assumption of indebtedness and the number of votes cast against assumption of indebtedness. If a question of the form or plan of government was voted upon, the statement shall show the number of votes cast in each city for each of the optional forms or plans of government. A certified copy of such statement shall be filed with the legislative body of each of the cities proposed to be consolidated.

If it appears from such statement of canvass that a majority of the votes cast in each of the cities were in favor of consolidation, the consolidation shall be authorized and shall be effective when the newly elected legislative body members assume office, as provided in section 11 of this act.

If a question of the form or plan of government was voted upon, that form or plan receiving the greatest combined number of votes shall become

the form or plan of government for the consolidated city. If two or three of the forms or plans of government received the same highest number of votes, the form or plan of government shall be chosen by lot between those receiving the same highest number, where the mayor of the largest of the cities proposed to be consolidated draws the lot at a public meeting.

If a proposition to assume indebtedness was submitted to voters of a city in which the indebtedness did not originate, the proposition shall be deemed approved if approved by a majority of at least three-fifths of the voters of the city, and the number of persons voting on the proposition constitutes not less than forty percent of the number of votes cast in the city at the last preceding general election. However, if the general indebtedness in question was incurred by action of a city legislative body, a proposition for assuming the indebtedness need only be approved by a simple majority vote of the voters of the city in which such indebtedness did not originate.

NEW SECTION. Sec. 11. If the voters of each of the cities proposed to consolidate approve the consolidation, elections to nominate and elect the elected officials of the consolidated city shall be held at times specified in RCW 35A.02.050. Terms shall be established as if the city is initially incorporating.

The newly elected officials shall take office immediately upon their qualification. The effective date of the consolidation shall be when a majority of the newly elected members of the legislative body assume office. The clerk of the newly consolidated city shall transmit a duly certified copy of an abstract of the votes to authorize the consolidation and of the election of the newly elected city officials to the secretary of state and the office of financial management.

NEW SECTION. Sec. 12. A newly consolidated city shall be known as the city of (listing the names of the cities that were consolidated in alphabetical order). The legislative body of the newly consolidated city may present another name or two names for the newly consolidated city to the city voters for their approval or rejection at the next municipal general election held after the effective date of the consolidation. If only one alternative name is submitted, this alternative name shall become the name of the consolidated city if approved by a simple majority vote of the voters voting on the question. If two alternative names are submitted, the name receiving the simple majority vote of the voters voting on the question shall become the name of the consolidated city.

NEW SECTION. Sec. 13. If consolidation is authorized, the costs of such election and the public meetings shall be borne by the city formed by such consolidation. If the consolidation is not authorized, the costs of election and the public meetings shall be borne proportionately by each city affected, in that ratio in which the number of inhabitants residing in the total area in which the election was held, as shown by the figures released at the

most recent state or federal census or by a determination of the office of financial management.

NEW SECTION. Sec. 14. A new section is added to chapter 35A.05 RCW to read as follows:

Code cities shall consolidate as provided in chapter 35.10 RCW.

Sec. 15. Section 4, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.217 are each amended to read as follows:

~~((Three other))~~ The following methods are available for the annexation of all or a part of a city ~~((or town))~~ to another city ~~((or town))~~:

(1) A petition for an election to vote upon the annexation of all or a part of a city ~~((or town))~~ to another city ~~((or town))~~ signed by qualified ~~((electors))~~ voters of the city ~~((or town))~~ proposed to be annexed equal in number to at least one-fifth of the votes cast at the last municipal general election held therein may be filed with the legislative body of the city ~~((or town))~~ to be annexed. Such legislative body, in turn, shall, by resolution, advise the legislative body of the city ~~((or town))~~ to which annexation is proposed of the receipt of such petition and request the latter legislative body to indicate by resolution whether it will accept the proposed annexation, and if so, on what terms. If such resolution of the annexing city states that its legislative body is favorably disposed toward such annexation, the legislative body of the city ~~((or town))~~ to be annexed shall submit to the ~~((electors))~~ voters in such territory proposed to be annexed, the question of whether such territory shall be annexed and such other propositions as are deemed appropriate.

(2) The legislative body of a city ~~((or town))~~ may on its own initiative by resolution indicate its desire to be annexed to a city ~~((or town))~~ either in whole or in part. In case such resolution is passed, such resolution shall be transmitted to the city ~~((or town))~~ to which it desires to be annexed, and the legislative body of such city ~~((or town))~~ shall by resolution indicate whether it will accept the proposed annexation, and if so, on what terms.

(3) In the event there are no qualified electors residing within a part of a city ~~((or town))~~ which said city ~~((or town))~~ wishes to have annexed to another contiguous city ~~((or town))~~, then the issue of annexation will be decided by the legislative body of the city ~~((or town))~~ from which the territory is to be withdrawn. This decision, which shall be by majority vote of said legislative body, shall be considered as if it was an election by qualified voters of said territory and handled accordingly under the other applicable sections of this chapter.

If the legislative body of the city ~~((or town))~~ to which annexation is proposed indicates a willingness to accept the annexation, then the question of whether such territory shall be annexed to such ~~((corporation))~~ city and become a part thereof and such other propositions as are deemed appropriate shall be submitted to the electors in the territory to be annexed by the legislative body of the city ~~((or town))~~ or part thereof to be annexed at an

election which such legislative body shall cause to be called for that purpose.

Sec. 16. Section 35.10.240, chapter 7, Laws of 1965 as last amended by section 1, chapter 157, Laws of 1981 and RCW 35.10.240 are each amended to read as follows:

In all cases of ~~((consolidation or))~~ annexation, the county canvassing board or boards shall canvass the votes cast thereat.

~~((In an election on the question of consolidation the votes cast in each of such corporations shall be canvassed separately, and a statement shall be prepared showing the whole number of votes cast, the number of votes cast for consolidation and the number of votes cast against consolidation, the number of votes cast for creation of a community municipal corporation and the number of votes cast against creation of a community municipal corporation, or both, as the case may be, in each of such corporations. In case the question of the form of government of the new corporation shall have been submitted at such election, the votes thereon and on the name of the new corporation shall be canvassed, and the result of such canvass shall be included in the statement, showing the total number of votes cast in all of the corporations for each form of government submitted. A certified copy of such statement shall be filed with the legislative body of each of the corporations affected.~~

~~If it shall appear upon such statement of canvass that a majority of the votes cast in each of such corporations were in favor of consolidation or consolidation and creation of a community municipal corporation, the legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of the corporations having the largest population as shown by the last determination of the office of financial management on or before the second Monday next succeeding the receipt of the statement of canvass to prepare a statement of votes cast and declaring the consolidation adopted or consolidation adopted and a community municipal corporation created, and if such issue were submitted, declaring the form of government to be that form for which a majority of all the votes on that issue were cast and the name of the consolidated city to be that name for which the greatest number of votes were cast.))~~

In an election on the question of the annexation of all or a part of a city ~~((or town))~~ to another city ~~((or town))~~, the votes cast in the city ~~((or town))~~ or portion thereof to be annexed shall be canvassed, and if a majority of the votes cast be in favor of annexation, the results shall be included in a statement indicating the total number of votes cast.

~~((Both with respect to consolidation and annexation;))~~ Δ proposition for the assumption of indebtedness outside the constitutional and/or statutory limits by the other ~~((corporation(s)))~~ city or cities in which the indebtedness did not originate shall be deemed approved if a majority of at least

three-fifths of the ~~((electors of the corporation))~~ voters of each city in which the indebtedness did not originate votes in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such ~~((corporations))~~ cities in which indebtedness did not originate at the last preceding general election: PROVIDED, HOWEVER, That if general obligation bond indebtedness was incurred by action by the city legislative body, a proposition for the assumption of such indebtedness by the other ~~((corporation(s)))~~ city or cities in which such indebtedness did not originate shall be deemed approved if a majority of the ~~((electors))~~ voters of ~~((the corporation))~~ each city in which such indebtedness did not originate votes in favor thereof.

A duly certified copy of such statement of ~~((either a consolidation or))~~ an annexation election shall be filed with the legislative body of each of the ~~((corporations))~~ cities affected and recorded upon its minutes, and it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies, to transmit to the secretary of state and the office of financial management a duly certified copy of the record of such statement.

Sec. 17. Section 10, chapter 89, Laws of 1969 ex. sess. as amended by section 3, chapter 157, Laws of 1981 and RCW 35.10.265 are each amended to read as follows:

Immediately after the filing of the statement of an annexation election, the legislative body of the annexing city may, if it deems it wise or expedient, adopt an ordinance providing for the annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the annexing city ~~((or town))~~. The clerk of the annexing city shall transmit a certified copy of this ordinance to the secretary of state and the office of financial management.

Sec. 18. Section 35.10.300, chapter 7, Laws of 1965 as amended by section 12, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.300 are each amended to read as follows:

Upon the consolidation of two or more ~~((corporations))~~ cities, or the annexation of any city ~~((or town))~~ to another city ~~((or town))~~, as provided in this chapter, the title to all property and assets owned by, or held in trust for, such former ~~((corporation, or))~~ city ~~((or town,))~~ shall vest in such consolidated ~~((corporation))~~ city, or annexing city ~~((or town))~~, as the case may be: PROVIDED, That if any such former ~~((corporation, or))~~ city ~~((or town))~~, shall be indebted, the proceeds of the sale of any such property and assets not required for the use of such consolidated ~~((corporation))~~ city, or annexing city, shall be applied to the payment of such indebtedness, if any exist at the time of such sale.

Sec. 19. Section 35.10.310, chapter 7, Laws of 1965 as amended by section 13, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.310 are each amended to read as follows:

Such consolidation, or annexation, shall in no wise affect or impair the validity of claim or chose in action existing in favor of or against, any such former (~~(corporation or)~~) city (~~(or town)~~) so consolidated or annexed, or any proceeding pending in relation thereto, but such consolidated (~~(corporation;)~~) or annexing city (~~(or town;)~~) shall collect such claims in favor of such former (~~(corporation, or)~~) cities (~~(or towns)~~), and shall apply the proceeds to the payment of any just claims against them respectively, and shall when necessary levy and collect taxes against the taxable property within any such former (~~(corporation, or)~~) city (~~(or town;)~~) sufficient to pay all just claims against it.

Sec. 20. Section 14, chapter 89, Laws of 1969 ex. sess. as amended by section 13, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.10.315 are each amended to read as follows:

Upon the consolidation of two or more (~~(corporations)~~) cities, or the annexation of any city (~~(or town)~~) after March 1st and prior to the date of adopting the final budget and levying the property tax dollar rate (~~(on the first Monday in October)~~) in that year for the next calendar year, the legislative body of the consolidated city or the annexing city is authorized to adopt the final budget and to levy the property tax dollar rate for the consolidated cities (~~(or towns)~~) and any city (~~(or town)~~) annexed.

Sec. 21. Section 15, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.317 are each amended to read as follows:

Upon the consolidation of two or more (~~(corporations)~~) cities, or the annexation of any city (~~(or town)~~), the consolidated or annexing city shall receive all state funds to which the component cities (~~(or towns)~~) would have been entitled to receive during the year when such consolidation or annexation became effective.

Sec. 22. Section 35.10.320, chapter 7, Laws of 1965 as last amended by section 4, chapter 157, Laws of 1981 and RCW 35.10.320 are each amended to read as follows:

All ordinances in force within any such former (~~(corporation)~~) city or cities, at the time of consolidation or annexation, not in conflict with the laws governing the consolidated (~~(corporation)~~) city, or with the ordinances of the former (~~(corporation)~~) city having the largest population, as shown by the last determination of the office of financial management shall remain in full force and effect until superseded or repealed by the legislative body of the consolidated (~~(corporation;)~~) or annexing city (~~(or town)~~), and shall be enforced by such (~~(corporation or)~~) city (~~(or town)~~), but all ordinances of such former (~~(corporations)~~) cities, in conflict with such (~~(laws, charters~~

or)) ordinances shall be deemed repealed by, and from and after, such consolidation or annexation, but nothing in this section shall be construed to discharge any person from any liability, civil or criminal, for any violation of any ordinance of such former ((corporation)) city or cities incurred prior to such consolidation or annexation.

Sec. 23. Section 17, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.331 are each amended to read as follows:

Unless indebtedness approved by the voters, contracted, or incurred prior to the date of consolidation or annexation as provided herein has been assumed by the voters in the other ((corporation(s))) city or cities in which such indebtedness did not originate, such indebtedness continues to be the obligation of the city ((or town)) in which it originated, and the legislative body of the consolidated or annexing city shall continue to levy the necessary taxes within the former ((corporation)) city that incurred this indebtedness to amortize such indebtedness.

Sec. 24. Section 1, chapter 73, Laws of 1967 and RCW 35.14.010 are each amended to read as follows:

~~Whenever ((cities are consolidated or cities of the third or fourth classes are annexed pursuant to the provisions of chapter 35.10 RCW, or)) unincorporated territory is annexed by a city pursuant to the provisions of chapter 35.13 RCW, community municipal corporations may be organized in the manner provided for in this 1967 amendatory act for the ((following service areas:~~

~~(1) The entire territory within the boundaries of the least populous of two cities consolidated pursuant to chapter 35.10 RCW;~~

~~(2) The entire territory within the boundaries of any city of the third or fourth class which has become annexed to a city of the first class pursuant to chapter 35.10 RCW; and~~

~~(3) The)) territory comprised of all or a part of an unincorporated area annexed to a city pursuant to chapter 35.13 RCW, if ((fa)) (1) the service area is such as would be eligible for incorporation as a city or town or ((fb)) (2) the service area has a minimum population of not less than three hundred inhabitants and ten percent of the population of the annexing city or ((fc)) (3) the service area has a minimum population of not less than one thousand inhabitants.~~

No territory shall be included in the service area of more than one community municipal corporation. Whenever a new community municipal corporation is formed embracing all of the territory of an existing community municipal corporation, the prior existing community municipal corporation shall be deemed to be dissolved on the effective date of the new corporation.

Sec. 25. Section 2, chapter 73, Laws of 1967 and RCW 35.14.020 are each amended to read as follows:

A community municipal corporation shall be governed by a community council composed ((as follows:

~~(1) As to a service area comprising the territory within the boundaries of the least populous of two consolidated cities, the members of the city council or commission of the least populous of the two cities shall be the members of the original community council. If the voters within the service area have elected to continue the community municipal corporation in existence as provided for in RCW 35.14.060, the membership of any such subsequent council shall be the same in number as the original council and such subsequent members shall be elected to consecutively numbered positions at the continuation election from qualified electors residing within the service area.~~

~~(2) As to a service area comprising the territory within a city of the third or fourth class annexed to a city of the first class, the members of the city council or commission of the third or fourth class city shall be the members of the original community council. If the voters within the service area have elected to continue the community municipal corporation in existence as provided for in RCW 35.14.060, the membership of any such subsequent council shall be the same in number as the original council and such subsequent members shall be elected to consecutively numbered positions at the continuation election from qualified electors residing within the service area.~~

~~(3) As to a service area comprising all or part of an unincorporated area annexed to a city, the community council shall consist)) of five members. Initial council members shall be elected concurrently with the annexation election to consecutively numbered positions from qualified electors residing within the service area. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city to which annexation is proposed. Subsequent council membership shall be the same in number as the initial council and such members shall be elected to consecutively numbered positions at the continuation election pursuant to RCW 35.14.060 from qualified electors residing within the service area.~~

~~((4)) Terms of original council members shall be coexistent with the original term of existence of the community municipal corporation and until their successors are elected and qualified. Vacancies in any council shall be filled for the remainder of the unexpired term by a majority vote of the remaining members.~~

Sec. 26. Section 35A.01.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.01.040 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be

presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in subdivisions (d) and (e) hereof are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, ((consolidation;)) incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action;

(d) Numbered lines for signatures with space provided beside each signature for the date of signing and the address of the signer;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he is not a legal voter, or signs a petition when he is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the date of signing and the address of the signer.

(3) The term "signer" means any person who signs his own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified electors or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the

petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.

Sec. 27. Section 35A.29.090, chapter 119, Laws of 1967 ex. sess. as amended by section 29, chapter 18, Laws of 1979 ex. sess. and by section 25, chapter 126, Laws of 1979 ex. sess. and RCW 35A.29.090 are each re-enacted to read as follows:

Except as otherwise provided in RCW 35A.03.130, 35A.04.140, 35A.05.110, or 35A.08.110, the term of every code city officer elected to office in a general municipal election as provided in RCW 29.13.020 shall begin when qualified and in accordance with RCW 29.04.170: PROVIDED, That any person elected to less than a full term where the office sought is vacant or is held by an appointed incumbent shall assume office as soon as the election returns are certified and they are qualified in accordance with

RCW 29.01.135, unless otherwise provided in this title: PROVIDED FURTHER, That when not otherwise provided in this title the term of officers elected at a special election shall begin on the first Monday following the certification of the election returns.

Sec. 28. Section 7, chapter 10, Laws of 1982 and RCW 36.93.090 are each amended to read as follows:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention with the board, which may review any such proposed actions pertaining to:

(1) The: (a) Creation, ((dissolution,)) incorporation, ((disincorporation, consolidation,)) or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water district pursuant to RCW 57.08.065 or chapter 57.40 RCW, as now or hereafter amended; or

(4) The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or

(5) The extension of permanent water or sewer service outside of its existing corporate boundaries by a city, town, or special purpose district.

NEW SECTION. Sec. 29. A new section is added to chapter 43.21C RCW to read as follows:

Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter.

NEW SECTION. Sec. 30. The following acts or parts of acts are each repealed:

(1) Section 35.10.200, chapter 7, Laws of 1965, section 1, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.200;

(2) Section 2, chapter 89, Laws of 1969 ex. sess., section 2, chapter 8, Laws of 1984 and RCW 35.10.211;

(3) Section 3, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.215;

(4) Section 35.10.220, chapter 7, Laws of 1965, section 15, chapter 73, Laws of 1967, section 5, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.220;

(5) Section 35.10.230, chapter 7, Laws of 1965, section 16, chapter 73, Laws of 1967, section 6, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.230;

(6) Section 8, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.245;

(7) Section 35.10.250, chapter 7, Laws of 1965, section 9, chapter 89, Laws of 1969 ex. sess., section 2, chapter 157, Laws of 1981 and RCW 35.10.250;

(8) Section 35.10.260, chapter 7, Laws of 1965, section 18, chapter 73, Laws of 1967, section 11, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.260;

(9) Section 35A.05.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.010;

(10) Section 35A.05.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.020;

(11) Section 35A.05.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.030;

(12) Section 35A.05.040, chapter 119, Laws of 1967 ex. sess., section 2, chapter 203, Laws of 1984 and RCW 35A.05.040;

(13) Section 35A.05.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.050;

(14) Section 35A.05.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.060;

(15) Section 35A.05.070, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.070;

(16) Section 35A.05.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.080;

(17) Section 35A.05.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.090;

(18) Section 35A.05.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.100;

(19) Section 35A.05.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.110;

(20) Section 35A.05.120, chapter 119, Laws of 1967 ex. sess., section 31, chapter 151, Laws of 1979 and RCW 35A.05.120;

(21) Section 35A.05.130, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.130;

(22) Section 35A.05.140, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.140;

(23) Section 35A.05.150, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.150;

(24) Section 35A.05.160, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.160; and

(25) Section 1, chapter 8, Laws of 1984 and RCW 35A.05.170.

NEW SECTION. Sec. 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 32. Sections 1 through 13 of this act are each added to chapter 35.10 RCW.

NEW SECTION. Sec. 33. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 282

[House Bill No. 629]

LOCAL TAXING DISTRICT LEVIES—VOTING REQUIREMENTS AND TIME LIMITATIONS REVISED

AN ACT Relating to excess levies for capital purposes; amending RCW 84.52.056; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 84.52.056, chapter 15, Laws of 1961 as last amended by section 104, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.52.056 are each amended to read as follows:

Any municipal corporation otherwise authorized by law to issue general obligation bonds for capital purposes may, at an election duly held after giving notice thereof as required by law, authorize the issuance of general obligation bonds for capital purposes only, which shall not include the replacement of equipment, and provide for the payment of the principal and interest of such bonds by annual levies in excess of the tax limitations contained in RCW 84.52.050 to 84.52.056, inclusive and RCW 84.52.043. (~~Such an election shall not be held oftener than twice a calendar year, and the proposition to issue any such bonds and to exceed said tax limitation must receive the affirmative vote of a three-fifths majority of those voting on the proposition and the total number of persons voting at such election must constitute not less than forty percent of the voters in said municipal corporation who voted at the last preceding general state election.~~)

Any taxing district shall have the right by vote of its governing body to refund any general obligation bonds of said district issued for capital purposes only, and to provide for the interest thereon and amortization thereof by annual levies in excess of the tax limitations provided for in RCW 84.52.050 to 84.52.056, inclusive and RCW 84.52.043.

NEW SECTION. Sec. 2. This act shall take effect December 5, 1985, if the proposed amendment to Article VII, section 2 of the state Constitution on voting requirements (HJR 22) is validly submitted to and is approved and ratified by the voters at a general election held in November 1985. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 283

[Substitute House Bill No. 1046]

HEALTH SERVICE CONTRACTS—HEALTH MAINTENANCE AGREEMENTS—INSURANCE COMMISSIONER DISAPPROVAL AUTHORITY

AN ACT Relating to health care; and amending RCW 48.44.020 and 48.46.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 268, Laws of 1947 as last amended by section 4, chapter 286, Laws of 1983 and RCW 48.44.020 are each amended to read as follows:

(1) Any health care service contractor may enter into agreements with or for the benefit of persons or groups of persons which require prepayment for health care services by or for such persons in consideration of such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a participant.

(2) The commissioner may require the submission of contract forms for his examination and may on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.04 RCW, disapprove any contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(b) If it has any title, heading or other indication of its provisions which is misleading; or

(c) If purchase of health care services thereunder is being solicited by deceptive advertising; or

(d) If, the benefits provided therein are unreasonable in relation to the amount charged for the contract;

(e) If it contains unreasonable restrictions on the treatment of patients;

(f) If it violates any provision of this chapter; ((or))

(g) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.04 RCW; or

(h) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

Sec. 2. Section 7, chapter 290, Laws of 1975 1st ex. sess. as amended by section 4, chapter 106, Laws of 1983 and RCW 48.46.060 are each amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.04 RCW, the commissioner may disapprove a contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract;

- (b) If it has any title, heading, or other indication which is misleading;
- (c) If purchase of health care services thereunder is being solicited by deceptive advertising;
- (d) If the benefits provided therein are unreasonable in relation to the amount charged for the contract;
- (e) If it contains unreasonable restrictions on the treatment of patients;
- ((or))
- (f) If it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.04 RCW; or
- (g) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: PROVIDED HOWEVER, That nothing contained herein shall prevent cancellation of a contract with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(5) No contract form or amendment to an approved contract form shall be used unless it is first filed with the commissioner.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 284

[Engrossed Substitute Senate Bill No. 3262]

NURSING HOMES

AN ACT Relating to licensing of nursing homes; amending RCW 74.42.380, 18.51.050, 18.52A.020, and 18.52A.030; adding a new section to chapter 18.51 RCW; and adding a new section to chapter 74.42 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.51 RCW to read as follows:

The department may deny a license to any applicant who has a history of significant noncompliance with federal or state regulations in providing nursing home care. In deciding whether to deny a license under this section, the factors the department considers shall include the gravity and frequency of the noncompliance.

Sec. 2. Section 38, chapter 211, Laws of 1979 ex. sess. and RCW 74-.42.380 are each amended to read as follows:

(1) The facility shall have a director of nursing services. The director of nursing services shall be a registered nurse.

(2) The director of nursing services is responsible for:

(a) Coordinating the plan of care for each resident;

(b) Permitting only licensed personnel to administer medications; PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses, and student nurses under the supervision of their clinical instructor, from administering medications when permitted to do so under chapter 18.88 RCW and rules promulgated pursuant thereto: PROVIDED FURTHER, That nothing herein shall be construed as prohibiting persons certified under chapter 18.135 RCW from practicing pursuant to the delegation and supervision requirements of chapter 18.135 RCW and rules promulgated pursuant thereto; and

(c) Insuring that the licensed practical nurses comply with chapter 18-.78 RCW ((and)), the registered nurses comply with chapter 18.88 RCW, and persons certified under chapter 18.135 RCW comply with the provisions of that chapter and rules promulgated pursuant thereto.

NEW SECTION. Sec. 3. A new section is added to chapter 74.42 RCW to read as follows:

(1) The purpose of this section is to prohibit discrimination against medicaid recipients by nursing homes which have contracted with the department to provide skilled or intermediate nursing care services to medicaid recipients.

(2) It shall be unlawful for any nursing home which has a medicaid contract with the department:

(a) To require, as a condition of admission, assurance from the patient or any other person that the patient is not eligible for or will not apply for medicaid;

(b) To deny or delay admission or readmission of a person to a nursing home because of his or her status as a medicaid recipient;

(c) To transfer a patient, except from a private room to another room within the nursing home, because of his or her status as a medicaid recipient;

(d) To transfer a patient to another nursing home because of his or her status as a medicaid recipient;

(e) To discharge a patient from a nursing home because of his or her status as a medicaid recipient; or

(f) To charge any amounts in excess of the medicaid rate from the date of eligibility, except for any supplementation permitted by the department pursuant to RCW 18.51.070.

(3) Any nursing home which has a medicaid contract with the department shall maintain one list of names of persons seeking admission to the facility, which is ordered by the date of request for admission. This information shall be retained for one year from the month admission was requested.

(4) The department may assess monetary penalties of a civil nature, not to exceed one thousand dollars for each violation of this section.

(5) Because it is a matter of great public importance to protect senior citizens who need medicaid services from discriminatory treatment in obtaining long-term health care, any violation of this section shall be construed for purposes of the application of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

(6) It is not an act of discrimination under this chapter to refuse to admit a patient if admitting that patient would prevent the needs of the other patients residing in that facility from being met at that facility.

Sec. 4. Section 6, chapter 117, Laws of 1951 as last amended by section 2, chapter 11, Laws of 1981 2nd ex. sess. and RCW 18.51.050 are each amended to read as follows:

Upon receipt of an application for license, the department shall issue a license if the applicant and the nursing home facilities meet the requirements established under this chapter. Prior to the issuance or renewal of the license, the licensee shall pay a license fee as established by the department. No fee shall be required of government operated institutions. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed thirty-six months in duration. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay a fee established by the department at the time of application for the license. The previously determined date of license expiration shall not change.

All applications and fees for renewal of the license (~~and for change of ownership licenses~~) shall be submitted to the department not later than thirty days prior to the date of expiration of the license (~~or the date of the proposed change of ownership~~). All applications and fees for change of ownership licenses shall be submitted to the department not later than sixty days before the date of the proposed change of ownership. Each license shall be issued only to the operating entity and those persons named in the license application. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 5. Section 2, chapter 114, Laws of 1979 and RCW 18.52A.020 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Nursing assistant" means a person who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients(;) in a facility licensed under chapter 18.51 RCW, ((under the direction and supervision of a registered nurse or licensed practical nurse)) a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(2) "Department" means the department of social and health services.

(3) "Nursing home" means a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(4) "Board" means the state board of nursing.

Sec. 6. Section 3, chapter 114, Laws of 1979 and RCW 18.52A.030 are each amended to read as follows:

(1) Any nursing assistant employed by a nursing home, who has satisfactorily completed a nursing assistant training program under this chapter, shall, upon application, be issued a certificate of completion.

(2) ~~((After June 30, 1980;))~~ All nursing assistants employed by a nursing home shall be required to show evidence of satisfactory completion of a nursing assistant training program, or that they are enrolled in and are progressing satisfactorily towards completion of a training program under standards promulgated by the board, which program must be completed within six months of employment. A nursing home may employ a person not currently enrolled if the employer within twenty days enrolls the person in an approved training program. All persons enrolled in a training program must satisfactorily complete the program within six months from the date of initial employment.

(3) All nursing assistants who, on June 7, 1979, are employed in nursing homes shall be given the opportunity to obtain a certificate of completion by passing a written and/or practical examination developed by the board and conducted by a school or nursing home, or by providing evidence of sufficient practical experience. The board shall adopt rules specifying the amount of practical experience to be required for the issuance of a certificate under this section.

(4) Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986,

compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 285

[Engrossed Senate Bill No. 3627]

MARGINAL LABOR ATTACHMENT—BENEFIT QUALIFICATIONS

AN ACT Relating to benefit qualifications for individuals with marginal labor force attachment; amending RCW 50.20.015; adding new sections to chapter 50.20 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) Prior to December 31, 1986, the commissioner may suspend the provisions of RCW 50.20.015(2) if the commissioner determines with respect to an individual claimant that a reasonable application of that subsection is precluded (a) by a condition of economic distress as defined in section 2 of this act; or (b) in an occupation in which governmental action prohibits the normal activities in such occupation. The commissioner shall adopt rules to implement the work search policy of the department for all claimants identified by this section. Factors to be considered in developing the policy shall include occupation of the claimant, employment conditions within the claimant's industry, labor market demand, length and frequency of unemployment of the claimant, and the potential for return to work at his or her previous employment. Claimant work search activities shall be conducted in accordance with the rules adopted under this section.

(2) The commissioner shall submit a report to the committees on commerce and labor of the senate and the house of representatives describing those conditions of economic distress identified under subsection (1) (a) or (b) of this section which preclude application of RCW 50.20.015(2). The report shall be filed within one week of the date that the suspension is made.

NEW SECTION. Sec. 2. For the purposes of section 1 of this act, a condition of economic distress exists when:

(1) A county has an unemployment rate that is twenty percent or more above the state-wide average for the previous three years;

(2) A labor market area has experienced a sudden and severe loss of employment as defined by the commissioner;

(3) A labor market area contains a distressed industry; or

(4) The commissioner determines that the circumstances of the individual claimant meet the intent of this section.

Sec. 3. Section 9, chapter 205, Laws of 1984 and RCW 50.20.015 are each amended to read as follows:

(1) If the product of an otherwise eligible individual's weekly benefit amount multiplied by thirteen is greater than the total amount of wages earned in ~~((the state of Washington))~~ covered employment in the higher of two corresponding calendar quarters included within the individual's determination period, that individual shall be considered to have marginal labor force attachment. However, the individual shall not be considered to have marginal labor force attachment if he or she had no wages or reduced wages in either of such two corresponding calendar quarters because of illness or disability sufficient to have resulted in a finding of marginal attachment, or because such individual's first wages in covered employment were earned after the fifth completed calendar quarter of the individual's determination period. For the purposes of this subsection and RCW 50.29.020, "determination period" means the first eight of the last nine completed calendar quarters immediately preceding the individual's current benefit year.

(2) With respect to new claims for benefits filed on or after July 1, 1985, in addition to any other requirements established under this chapter which are not inconsistent with (a) through (f) of this subsection, if a determination is made under subsection (1) of this section that an individual has marginal labor force attachment, the following provisions shall apply to benefits payable to such individuals under this chapter:

(a) Payment of benefits under this chapter shall not be made to any individual for any week of unemployment:

(i) During which he or she fails to accept any offer of suitable work, as defined in subsection (2)(c) of this section, or fails to apply for any suitable work to which he or she was referred by the department; or

(ii) During which he or she fails to actively engage in seeking work.

(b) If any individual is ineligible for benefits for any week by reason of a failure described in subsection (2)(a)(i) ~~((or (2)(a)(ii)))~~ of this section, the individual shall be ineligible to receive benefits for any week which begins during a period which:

(i) Begins with the week following the week in which such failure occurs; and

(ii) Does not end until such individual has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

(c) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110.

(d) Benefits shall not be denied under subsection (2)(a)(i) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(i) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of:

(A) The individual's weekly benefit amount, as determined under RCW 50.20.120, for his or her benefit year; plus

(B) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;

(ii) The position was not offered to such individual in writing and was not listed with the department;

(iii) Such failure would not result in a denial of benefits under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (2)(c) and (2)(e) of this section; or

(iv) The position pays wages less than the higher of:

(A) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(B) Any applicable state or local minimum wage.

(e) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(i) The individual has engaged in a systematic and sustained effort to obtain work during such week, which has included at least five employer contacts: PROVIDED, That if the department determines that economic conditions within a designated labor market area make it unlikely that individuals will be able to fulfill the requirement of five employer contacts per week, then the department shall designate an appropriate number of required contacts for individuals within such labor market area; PROVIDED FURTHER, That if the department makes such a determination, then it shall report the determination, the newly-established number of employer contacts required within the designated labor market area, and supporting documentation for these actions, to the governor and the respective chairpersons of the house committee on labor and the senate committee on commerce and labor;

(ii) The individual provides tangible evidence to the department that he or she has engaged in such an effort during such week. Such evidence shall include information supplied by the individual on forms developed by the department which also provide for employer signature to verify work search contacts and comments regarding the individual's preparedness for immediate work.

(f) The department shall refer applicants to any suitable work to which subsections (2)(d)(i) through (2)(d)(iv) of this section would not apply. To

the extent possible, the department shall provide each applicant with five referrals each week. A referral shall serve as one of the employer contacts required in subsection (2)(c)(i) of this section.

(3) This section shall not apply to an individual who earned wages in covered employment in at least eighty hours in each calendar quarter of the individual's base period, nor shall it apply to an individual who during the first half of the determination period performed work and earned wages for services not considered to be covered employment in Washington.

NEW SECTION. Sec. 4. Sections 1 and 2 of this act are each added to chapter 50.20 RCW.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate April 15, 1985.

Passed the House April 11, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 286

[Substitute Senate Bill No. 3207]

PRISON WORK PROGRAMS—FISH AND GAME REARING PROJECTS

AN ACT Relating to prison work programs; and adding a new chapter to Title 72 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds and declares that the establishment of prison work programs that allow prisoners to undertake food fish, shellfish, and game fish rearing projects and game bird and game animal improvement, restoration, and protection projects is needed to reduce idleness, promote the growth of prison industries, and provide prisoners with skills necessary for their successful reentry into society.

NEW SECTION. Sec. 2. The departments of corrections, fisheries, and game shall establish at or near appropriate state institutions, as defined in RCW 72.65.010, prison work programs that use prisoners to undertake state food fish, shellfish, and game fish rearing projects and state game bird and game animal improvement, restoration, and protection projects and that meet the requirements of RCW 72.09.100.

The department of corrections shall seek to identify a group of prisoners at each appropriate state institution, as defined by RCW 72.65.010, that are interested in participating in prison work programs established by this chapter.

If the department of corrections is unable to identify a group of prisoners to participate in work programs authorized by this chapter, it may enter into an agreement with the departments of fisheries or game for the purpose of designing projects for any institution. Costs under this section shall be borne by the department of corrections.

The departments of corrections, fisheries, and game shall use prisoners, where appropriate, to perform work in state projects that may include the following types:

(1) Food fish, shellfish, and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding: PROVIDED, That no project shall be established at the department of game's south Tacoma game farm;

(3) Manufacturing of equipment for use in fish and game volunteer cooperative projects permitted by the department of fisheries or the department of game, or for use in prison work programs with fish and game; and

(4) Maintenance, repair, restoration, and redevelopment of facilities operated by the departments of game and fisheries.

NEW SECTION. Sec. 3. (1) The departments of fisheries and game, as appropriate, shall provide professional assistance from biologists, fish culturists, pathologists, engineers, habitat managers, and other departmental staff to assist the development and productivity of prison work programs under section 2 of this act, upon agreement with the department of corrections.

(2) The departments of fisheries and game shall identify and describe potential and pilot projects that are compatible with the goals of the various departments involved and that are particularly suitable for prison work programs.

(3) The departments of fisheries or game, or both, as appropriate, may make available surplus hatchery rearing space, net pens, egg boxes, portable rearing containers, incubators, and any other departmental facilities or property that are available for loan to the department of corrections to carry out prison work programs under section 2 of this act.

(4) The departments of fisheries or game, or both, as appropriate, shall provide live fish eggs, bird eggs, juvenile fish, game animals, or other appropriate seed stock, juveniles, or brood stock of acceptable disease history

and genetic composition for the prison work projects at no cost to the department of corrections, to the extent that such resources are available. Fish food, bird food, or animal food may be provided by the departments of fisheries and game to the extent that funding is available.

(5) The department of natural resources shall assist in the implementation of the program where project sites are located on public beaches or state owned aquatic lands.

NEW SECTION. Sec. 4. The costs of implementation of the projects prescribed by this chapter shall be supported to the extent that funds are available under the provisions of chapter 75.52 RCW, and from institutional industries funds.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a new chapter in Title 72 RCW.

Passed the Senate April 26, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 287

[Engrossed Senate Bill No. 3176]

JUVENILE RESIDENTIAL FACILITIES—EARLY RELEASE AUTHORITY FOR EXCESS CAPACITY REDUCTION

AN ACT Relating to the release of juvenile offenders from residential facilities; and amending RCW 13.40.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 75, chapter 291, Laws of 1977 ex. sess. as last amended by section 11, chapter 191, Laws of 1983 and RCW 13.40.210 are each amended to read as follows:

(1) The secretary shall, except in the case of a juvenile committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the juvenile was found to be guilty established pursuant to RCW 13.40.030, as now or hereafter amended, set a release or discharge date for each juvenile committed to its custody which shall be within the prescribed range to which a juvenile has been committed. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter: PROVIDED, That days spent in the custody of the department shall be tolled by any period of time during which a juvenile

has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may ~~(; until June 30, 1985,)~~ recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary ~~((may have temporary))~~ has authority ~~((until June 30, 1985,))~~ to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release and notify each member of the legislature at the end of each calendar year if any such early releases have occurred during that year as a result of excessive in-residence population. In no event shall a serious offender, as defined in RCW 13.40.020(1) be granted release under the provisions of this subsection.

(3) Following the juvenile's release pursuant to subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months. Such a parole program shall be mandatory for offenders released under subsection (2) of this section. The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal may require the juvenile to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address; and (e) refrain from committing new offenses. After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (a) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision

authorized by this chapter; and (d) imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest such person.

Passed the Senate February 12, 1985.

Passed the House April 24, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 288

[Engrossed Substitute Senate Bill No. 3012]

HARASSMENT

AN ACT Relating to harassment; amending RCW 9.61.230; adding a new chapter to Title 9A RCW; creating a new section; providing penalties; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the prevention of serious, personal harassment is an important government objective. Toward that end, this chapter is aimed at making unlawful the repeated invasions of a person's privacy by acts and threats which show a pattern of harassment designed to coerce, intimidate, or humiliate the victim.

The legislature further finds that the protection of such persons from harassment can be accomplished without infringing on constitutionally protected speech or activity.

NEW SECTION. Sec. 2. (1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

(2) A person who harasses another is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW, unless the person has previously been convicted in this or any other state of any crime of harassment, as defined in section 6 of this act, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

NEW SECTION. Sec. 3. Any harassment offense committed as set forth in section 2 of this act may be deemed to have been committed where the conduct occurred or at the place from which the threat or threats were made or at the place where the threats were received.

NEW SECTION. Sec. 4. (1) Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, when any defendant charged with a crime involving harassment is released from custody before trial on bail or personal recognizance, the court authorizing the release may require that the defendant:

(a) Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

(b) Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

(2) An intentional violation of a court order issued under this section is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter __ RCW (chapter __, Laws of 1985). A certified copy of the order shall be provided to the victim by the clerk of the court.

NEW SECTION. Sec. 5. A defendant who is charged by citation, complaint, or information with an offense involving harassment and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information. At that appearance, the court shall determine the necessity of imposing a no-contact or no-harassment order or other conditions of pretrial release according to the procedures established by court rule for preliminary appearance or an arraignment.

NEW SECTION. Sec. 6. As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (section 2 of this act);
- (2) Malicious harassment (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.010);
- (5) Assault in the second degree (RCW 9A.36.020);
- (6) Simple assault (RCW 9A.36.040);
- (7) Reckless endangerment (RCW 9A.36.050);
- (8) Extortion in the first degree (RCW 9A.56.120);
- (9) Extortion in the second degree (RCW 9A.56.130);
- (10) Coercion (RCW 9A.36.070);
- (11) Burglary in the first degree (RCW 9A.52.020);
- (12) Burglary in the second degree (RCW 9A.52.030);
- (13) Criminal trespass in the first degree (RCW 9A.52.070);
- (14) Criminal trespass in the second degree (RCW 9A.52.080);
- (15) Malicious mischief in the first degree (RCW 9A.48.070);
- (16) Malicious mischief in the second degree (RCW 9A.48.080);
- (17) Malicious mischief in the third degree (RCW 9A.48.090);
- (18) Kidnapping in the first degree (RCW 9A.40.020);
- (19) Kidnapping in the second degree (RCW 9A.40.030);
- (20) Unlawful imprisonment (RCW 9A.40.040);
- (21) Rape in the first degree (RCW 9A.44.040);
- (22) Rape in the second degree (RCW 9A.44.050);
- (23) Rape in the third degree (RCW 9A.44.060);
- (24) Indecent liberties (RCW 9A.44.100);
- (25) Statutory rape in the first degree (RCW 9A.44.070);
- (26) Statutory rape in the second degree (RCW 9A.44.080); and
- (27) Statutory rape in the third degree (RCW 9A.44.090).

NEW SECTION. Sec. 7. Any law enforcement agency in this state may enforce this chapter as it relates to orders restricting the defendants' ability to have contact with the victim or others.

NEW SECTION. Sec. 8. The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that order shall be provided to the victim or witnesses by the clerk of the court. Willful violation of a court order issued under this section is a misdemeanor. The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.—RCW (sections 1 through 10 of this act) and will subject a violator to arrest.

NEW SECTION. Sec. 9. A peace officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith

of a court order, or any other action or omission in good faith under this chapter arising from an alleged incident of harassment brought by any party to the incident.

NEW SECTION. Sec. 10. As used in RCW 9.61.230 or section 2 of this act, a person has been "convicted" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing, posttrial motions, and appeals.

Sec. 11. Section 1, chapter 16, Laws of 1967 and RCW 9.61.230 are each amended to read as follows:

Every person who, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person:

(1) Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

(2) Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

(3) Threatening to inflict injury on the person or property of the person called or any member of his or her family(;

(4) without purpose of legitimate communication)) or household; shall be guilty of a ((misdemeanor)) gross misdemeanor, unless that person has previously been convicted of any crime of harassment, as defined in section 6 of this 1985 act, with the same victim or member of the victim's family or household or any person specifically named in a no-contact or no-harassment order in this or any other state, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW.

NEW SECTION. Sec. 12. This act shall be known as the anti-harassment act of 1985.

NEW SECTION. Sec. 13. Sections 1 through 10 of this act shall constitute a new chapter in Title 9A RCW.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1985.

Passed the Senate April 27, 1985.

Passed the House April 26, 1985.

Approved by the Governor Má y 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 289

[Senate Bill No. 3173]

TRESPASS ON AQUACULTURE LANDS OR STRUCTURES

AN ACT Relating to aquaculture; and reenacting and amending RCW 9A.52.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9A.52.010, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 49, Laws of 1984 and by section 5, chapter 273, Laws of 1984 and RCW 9A.52.010 are each reenacted and amended to read as follows:

The following definitions apply in this chapter:

(1) "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property;

(2) "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;

(3) "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land;

(4) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer;

(5) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data;

(6) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means.

Passed the Senate April 23, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 290

[Substitute Senate Bill No. 3580]
BUSINESS CORPORATIONS

AN ACT Relating to business corporations; amending RCW 23A.08.120, 23A.08.190, 23A.08.390, 23A.08.450, 23A.12.020, 23A.16.010, 23A.16.030, 23A.16.040, 23A.24.040, 23A.28.135, 23A.32.050, 23A.32.073, 23A.32.075, 23A.32.140, 23A.40.032, 23A.40.040, 23A.40.060, 23A.40.070, and 23A.98.030; adding new sections to chapter 23A.08 RCW; repealing RCW 23A.08.160, 23A.08.210, 23A.08.440, 23A.32.077, 23A.32.079, 23A.40.037, 23A.40.050, and 23A.40.090; making an appropriation; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15, chapter 53, Laws of 1965 as last amended by section 4, chapter 75, Laws of 1984 and RCW 23A.08.120 are each amended to read as follows:

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes(~~(, any or all of which classes may consist of shares with par value or shares without par value,)~~) with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this title.

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

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

(2) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

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

(4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior

rights and preferences as to dividends or distribution of assets upon liquidation.

NEW SECTION. Sec. 2. A new section is added to chapter 23A.08 RCW to read as follows:

(1) The powers granted in this section are subject to restriction by the articles of incorporation.

(2) Shares may be issued at a price determined by the board of directors, or the board may set a minimum price or establish a formula or method by which the price may be determined.

(3) Consideration for shares may consist of cash, promissory notes, services performed, contracts for services to be performed, or any other tangible or intangible property. If shares are issued for other than cash, the board of directors shall determine the value of the consideration.

(4) Shares issued when the corporation receives the consideration determined by the board are validly issued, fully paid, and nonassessable.

(5) A good faith judgment of the board of directors as to the value of the consideration received for shares is conclusive.

(6) The corporation may place shares issued for a contract for future services or a promissory note in escrow, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed or the note is paid. If the services are not performed or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or in part.

Sec. 3. Section 22, chapter 53, Laws of 1965 as last amended by section 10, chapter 75, Laws of 1984 and RCW 23A.08.190 are each amended to read as follows:

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

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to

issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

(1) That the corporation is organized under the laws of this state.

(2) The name of the person to whom issued.

(3) The number and class of shares, and the designation of the series, if any, which such certificate represents.

~~((Each certificate representing shares may state upon the face thereof the par value of each share, or a statement that the shares are without par value.))~~

No certificate shall be issued for any share until the consideration established for its issuance has been paid.

NEW SECTION. Sec. 4. A new section is added to chapter 23A.08 RCW to read as follows:

(1) A subscriber for or holder of shares of a corporation is not liable to the corporation or its creditors with respect to the shares except to pay the subscription price or to satisfy the obligation determined as the consideration for the shares under section 2 of this act.

(2) If shares are issued for promissory notes, for contracts for services to be performed, or before subscriptions are fully paid, a transferee of the shares is not liable to the corporation or its creditors for the unpaid balance but the transferor remains liable.

NEW SECTION. Sec. 5. A new section is added to chapter 23A.08 RCW to read as follows:

(1) If a transaction is fair to a corporation at the time it is authorized, approved, or ratified, the fact that a director or an officer had a direct or indirect interest in the transaction is not grounds for either invalidating the transaction or imposing liability on such director or officer.

(2) In any proceeding seeking to invalidate a transaction with the corporation in which a director or an officer had a direct or indirect interest, or to impose liability on a director or an officer who had a direct or indirect interest in a transaction with the corporation, the person asserting the validity of the transaction has the burden of proving fairness unless:

(a) The material facts of the transaction and the director's or officer's interest was disclosed or known to the board of directors, or a committee of the board, and the board or committee authorized, approved, or ratified the transaction; or

(b) The material facts of the transaction and the director's or officer's interest was disclosed or known to the shareholders entitled to vote, and they authorized, approved, or ratified the transaction.

(3) For purposes of this section, a director or an officer of a corporation has an indirect interest in a transaction with the corporation if:

(a) Another entity in which the director or officer has a material financial interest, or in which such person is a general partner, is a party to the transaction; or

(b) Another entity of which the director or officer is a director, officer, or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(4) For purposes of subsection (2)(a) of this section, a transaction is authorized, approved, or ratified only if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct or indirect interest in the transaction. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (2)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(5) For purposes of subsection (2)(b) of this section, a transaction is authorized, approved, or ratified only if it receives the vote of a majority of shares entitled to be counted under this subsection. All outstanding shares entitled to vote under this title or the articles of incorporation shall be entitled to be counted under this subsection except shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction. Shares owned by or voted under the control of an entity described in subsection (3)(a) of this section may not be counted to determine whether shareholders have authorized, approved, or ratified a transaction for purposes of subsection (2)(b) of this section. The vote of the shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction and shares owned by or voted under the control of an entity described in subsection (3)(a) of this section, however, shall be counted in determining whether the transaction is approved under other sections of this title and for purposes of determining a quorum.

NEW SECTION. Sec. 6. A new section is added to chapter 23A.08 RCW to read as follows:

(1) For purposes of this section:

(a) An interested shareholder transaction means any transaction between a corporation, or any subsidiary thereof, and an interested shareholder of such corporation or an affiliated person of an interested shareholder that must be authorized pursuant to the provisions of chapter 23A.20 or 23A.28 RCW, or RCW 23A.24.020.

(b) An interested shareholder:

(i) Includes any person or group of affiliated persons who beneficially own twenty percent or more of the outstanding voting shares of a corporation. An affiliated person is any person who either acts jointly or in concert with, or directly or indirectly controls, is controlled by, or is under common control with another person;

(ii) Excludes any person who, in good faith and not for the purpose of circumventing this section, is an agent, bank, broker, nominee, or trustee for another person, if such other person is not an interested shareholder under (b)(i) of this subsection.

(2) Except as provided in subsection (3) of this section, an interested shareholder transaction must be approved by the affirmative vote of the holders of two-thirds of the shares entitled to be counted under this subsection, or if any class of shares is entitled to vote thereon as a class, then by the affirmative vote of the holders of two-thirds of the shares of each class entitled to be counted under this subsection and of the total shares entitled to be counted under this subsection. All outstanding shares entitled to vote under this title or the articles of incorporation shall be entitled to be counted under this subsection except shares owned by or voted under the control of an interested shareholder may not be counted to determine whether shareholders have approved a transaction for purposes of this subsection. The vote of the shares owned by or voted under the control of an interested shareholder, however, shall be counted in determining whether a transaction is approved under other sections of this title and for purposes of determining a quorum.

(3) This section shall not apply to a transaction:

(a) Unless the articles of incorporation provide otherwise, by a corporation with fewer than three hundred holders of record of its shares;

(b) Approved by a majority vote of the corporation's board of directors. For such purpose, the vote of directors whose votes are entitled to be counted under subsection (3)(b) of this section who are directors or officers of, or have a material financial interest in an interested shareholder, or who were nominated for election as a director as a result of an arrangement with an interested shareholder and first elected as a director within twenty-four months of the proposed transaction, shall not be counted in determining whether the transaction is approved by such directors;

(c) In which a majority of directors whose votes are entitled to be counted under subsection (3)(b) of this section determines that the fair market value of the consideration to be received by noninterested shareholders for shares of any class of which shares are owned by any interested shareholder is not less than the highest fair market value of the consideration paid by any interested shareholder in acquiring shares of the same class within twenty-four months of the proposed transaction; or

(d) By a corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation by the affirmative vote of the holders of two-thirds of the shares entitled to be counted under this subsection, expressly electing not to be covered by this section. All outstanding shares entitled to vote under this title or the articles of incorporation shall be entitled to be counted under this subsection except shares owned by or voted under the control of an interested shareholder may not be counted to determine whether shareholders have voted to approve the amendment. The vote of the shares owned by or voted under the control of an interested shareholder, however, shall be counted in determining whether the amendment is approved under other sections of this title and for purposes of determining a quorum.

(4) The requirements imposed by this section are to be in addition to, and not in lieu of, requirements imposed on any transaction by any other provision in this title, the articles of incorporation, or the bylaws of the corporation, or otherwise.

Sec. 7. Section 42, chapter 53, Laws of 1965 as amended by section 21, chapter 16, Laws of 1979 and RCW 23A.08.390 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section:

(a) A majority of the number of directors fixed by or in the manner provided in the bylaws, or in the absence of a bylaw fixing or providing for the number of directors, then of the number fixed by or in the manner provided in the articles of incorporation, shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws.

(b) The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

(2) If a transaction with a corporation in which a director or an officer has a direct or indirect interest is authorized, approved, or ratified by the vote of a majority of directors with no direct or indirect interest in the transaction:

(a) A quorum for purposes of taking such action is present; and

(b) The act of such majority of disinterested directors is the act of the board of directors.

NEW SECTION. Sec. 8. A new section is added to chapter 23A.08 RCW to read as follows:

(1) Except as provided in subsection (3) of this section, a corporation may not lend money to or guarantee the obligation of a director of the corporation unless:

(a) The particular loan or guarantee is approved by vote of the holders of at least a majority of the votes represented by the outstanding voting shares of all classes, except the votes of the benefited director; or

(b) The corporation's board of directors determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees.

(2) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's or guarantor's liability on the loan.

(3) This section does not apply to loans and guarantees authorized by statute regulating any special class of corporations.

Sec. 9. Section 48, chapter 53, Laws of 1965 as last amended by section 15, chapter 75, Laws of 1984 and RCW 23A.08.450 are each amended to read as follows:

In addition to any other liabilities, directors shall be liable in the following circumstances unless they comply with the standard provided in RCW 23A.08.343 for the performance of the duties of directors:

(1) Directors of a corporation who vote for or assent to any distribution contrary to the provisions of this title, or contrary to any restrictions contained in the articles of incorporation, shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of such distribution in excess of the amount of such distribution which could have been made without a violation of the provisions of this title or the restrictions in the articles of incorporation.

(2) The directors of a corporation who vote for or assent to the making of a loan to ~~((an officer or))~~ a director of the corporation, or the making of any loan secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved ~~((by the shareholders))~~ as provided in ~~((RCW 23A.08.440))~~ section 8 of this 1985 act.

Any director against whom a claim shall be asserted under or pursuant to this section for the making of a distribution and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such distribution, knowing such distribution to have been made in violation of this title, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from any other director who voted for or assented to the action upon which the claim is asserted and who did not comply with the standard provided in this title for the performance of the duties of directors.

Sec. 10. Section 55, chapter 53, Laws of 1965 as last amended by section 17, chapter 75, Laws of 1984 and RCW 23A.12.020 are each amended to read as follows:

The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated term of years.
- (3) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this title.
- (4) The aggregate number of shares which the corporation shall have authority to issue(~~(; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or,))~~ and if such shares are to be divided into classes, the number of shares of each class(~~(; and a statement of the par value of the shares of each such class or that such shares are to be without par value)).~~)
- (5) (~~If all or any portion of the shares have no par value, the aggregate value of those shares, or, such aggregate value shall be stated in the statement filed pursuant to RCW 23A.40.050.~~

~~(6))~~ If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

~~((7))~~ (6) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

~~((8))~~ (7) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

~~((9))~~ (8) The address of its initial registered office and the name of its initial registered agent at such address.

~~((10))~~ (9) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

~~((11))~~ (10) The name and address of each incorporator.

In addition to the provisions required under this section, the articles of incorporation may also contain provisions not inconsistent with law regarding:

(a) The direction of the management of the business and the regulation of the affairs of the corporation;

(b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares; (~~and~~)

(c) The par value of any authorized shares or class of shares; and

(d) Any provision which under this title is required or permitted to be set forth in the bylaws.

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

Sec. 11. Section 60, chapter 53, Laws of 1965 and RCW 23A.16.010 are each amended to read as follows:

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

(1) To change its corporate name.

(2) To change its period of duration.

(3) To change, enlarge or diminish its corporate purposes.

(4) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue.

~~(5) ((To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued))~~ To provide, change, or eliminate any provision with respect to par value of any shares or class of shares.

(6) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued.

(7) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued.

~~(8) ((To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value.~~

~~(9))~~ To change the shares of any class, whether issued or unissued, ((and whether with or without par value,)) into a different number of shares of the same class or into the same or a different number of shares((~~either with or without par value,))~~ of other classes.

~~((+10))~~ (9) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued.

~~((11))~~ (10) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared.

~~((12))~~ (11) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series.

~~((13))~~ (12) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established.

~~((14))~~ (13) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed.

~~((15))~~ (14) To revoke, diminish, or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established.

~~((16))~~ (15) To limit, deny or grant to shareholders of any class the preemptive right to acquire additional shares of the corporation, whether then or thereafter authorized.

Sec. 12. Section 62, chapter 53, Laws of 1965 and RCW 23A.16.030 are each amended to read as follows:

The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(1) Increase or decrease the aggregate number of authorized shares of such class.

~~(2) ((Increase or decrease the par value of the shares of such class.~~

~~(3))~~ Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

~~((4))~~ (3) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

~~((5))~~ (4) Change the designations, preferences, limitations or relative rights of the shares of such class.

~~((6))~~ (5) Change the shares of such class ~~((, whether with or without par value,))~~ into the same or a different number of shares ~~((, either with or without par value,))~~ of the same class or another class or classes.

~~((7))~~ (6) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and

preferences of any class having rights and preferences prior or superior to the shares of such class.

~~((8))~~ (7) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so.

~~((9))~~ (8) Limit or deny the existing preemptive rights of the shares of such class.

~~((10))~~ (9) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been declared.

Sec. 13. Section 63, chapter 53, Laws of 1965 as last amended by section 19, chapter 75, Laws of 1984 and RCW 23A.16.040 are each amended to read as follows:

The articles of amendment shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) The date of the adoption of the amendment by the shareholders, or by the board of directors where RCW 23A.16.020 authorizes amendment without shareholder approval.

(4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.

(6) If such amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

~~((7) If such amendment effects a change in the amount of the corporation's authorized capital stock, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of the authorized capital stock as changed by such amendment.))~~

Sec. 14. Section 83, chapter 53, Laws of 1965 as amended by section 44, chapter 16, Laws of 1979 and RCW 23A.24.040 are each amended to read as follows:

Any shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof,

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

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

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

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

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

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

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

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

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part

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

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

~~((Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as the plan of merger or consolidation may otherwise provide.))~~

Sec. 15. Section 3, chapter 32, Laws of 1983 and RCW 23A.28.135 are each amended to read as follows:

(1) A corporation which has been dissolved by reason of the expiration of its period of duration may ~~((at))~~ until the later of December 31, 1985, or any time during the period of two years following its dissolution amend its articles of incorporation so as to extend its period of duration.

(2) To achieve the extension authorized by subsection (1) of this section, the corporation shall file an application for extension. The application may be amended or supplemented and any such amendment or supplement shall be effective as of the date of the original application filing. The application to be filed under this section shall be authorized in the manner set

forth in subsection (6) of this section, and shall be presented to the shareholders for approval in the manner set forth in RCW 23A.16.020 and 23A.16.030. The application, when so approved, shall, in addition to the information required by RCW 23A.16.040:

(a) State the date of the expiration of the period of corporate duration;
(b) Identify the amended period of duration, which may be perpetual or for a stated period of years;

(c) State the name of the corporation (which may be reserved under RCW 23A.08.060);

(d) Appoint a registered agent and state the registered office address under RCW 23A.08.090; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law and that all applicable fees have been paid, the secretary of state shall file the application for extension, prepare and file a certificate of extension and amendment, and mail a copy of the certificate of extension and amendment to the corporation.

(4) Extension under this section relates back to and takes effect as of the date of expiration of the corporation's period of duration. The corporate existence shall be deemed to have continued without interruption from that date.

(5) In the event the application for extension states a corporate name which the secretary of state finds to be contrary to the requirements of RCW 23A.08.050, the application, amended application, or supplemental application shall be amended to adopt another corporate name which is in compliance with RCW 23A.08.050. In the event the extension application so adopts a new corporate name, the articles of incorporation shall be deemed to have been amended to change the corporation's name to the name so adopted, effective as of the effective date of the certificate of extension and amendment.

(6) The application shall be authorized by a majority of the persons who were directors at the time of expiration of the corporation's period of duration. If a sufficient number of the directors of any corporation desiring to apply for extension are not available by reason of death or unknown address, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such directors. In any case where there shall be no directors of the corporation available for the purposes aforesaid, the shareholders may elect a full board of directors, as provided by the by-laws of the corporation, and the board shall then elect such officers as are provided by law, by the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation. A special meeting of the shareholders for the purposes of electing directors may be called by any officer, director, or shareholder upon notice given in accordance with RCW 23A.08.260.

Sec. 16. Section 6, chapter 2, Laws of 1983 as amended by section 6, chapter 32, Laws of 1983 and RCW 23A.32.050 are each amended to read as follows:

A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

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

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated", or "limited", or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state.

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

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

(5) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

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

(7) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes (~~(, par value of shares, shares without par value,)~~) and series, if any within a class.

(8) A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.

~~(9) ((The number of shares of capital stock which the company is authorized to issue and the par value of each share, and if such shares have no par value, then the value of the assets represented by nonpar shares.~~

~~(10) The portion of the capital stock of the company which is represented or to be represented, employed or to be employed in its business transacted or to be transacted in the state of Washington:~~

~~(11) The value of the property in or to be brought into, and the amount of capital to be used by the company in the state of Washington and the value of the property and capital owned or used by the company outside of the state of Washington.~~

~~(12))~~ The date of the beginning of its current annual accounting period.

~~((13))~~ (10) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in this title prescribed.

~~((14))~~ (11) For any foreign agricultural cooperative association, evidence that the association has complied with the provisions of RCW 24.32.210.

Such application shall be made in the form prescribed by the secretary of state and shall be executed in duplicate by the corporation by one of its officers.

Such application shall be accompanied by a certificate of good standing which has been issued no more than sixty days before the date of filing of the application for a certificate of authority to do business in this state and has been certified to by the proper officer of the state or country under the laws of which it is incorporated.

Sec. 17. Section 51, chapter 16, Laws of 1979 as last amended by section 45, chapter 35, Laws of 1982 and RCW 23A.32.073 are each amended to read as follows:

A foreign corporation doing an intrastate business or seeking to do an intrastate business in the state of Washington shall qualify so to do in the manner prescribed in this title and shall pay for the privilege of so doing the filing and license fees prescribed in this title for domestic corporations, including the same fees as are prescribed in chapter 23A.40 RCW for the filing of articles of incorporation of a domestic corporation. ~~((The fee shall be computed under RCW 23A.32.077, except that the minimum filing fee shall be one hundred dollars, exclusive of any other fee. Any corporation that employs an increased amount of its capital stock within the state shall pay fees at the same rate upon such increase, and whenever such increase is made such corporation shall file with the secretary of state, in a form prescribed by the secretary of state, a statement showing the amount of such increase:))~~

Sec. 18. Section 52, chapter 16, Laws of 1979 as last amended by section 46, chapter 35, Laws of 1982 and RCW 23A.32.075 are each amended to read as follows:

All foreign corporations doing intrastate business, or hereafter seeking to do intrastate business in this state shall pay for the privilege of doing such intrastate business in this state the same fees as are prescribed for domestic corporations for annual license fees ~~((, computed under RCW 23A.32.077. Any such corporation that shall employ an increased amount of its capital stock within this state shall pay license fees upon such increase in the same proportion as provided for payment of license fees by domestic corporations. Such corporations shall file with the secretary of state a statement showing the amount of such increase and shall forthwith pay to the secretary of state the license fee brought about by such increased use of capital represented by its property and business in this state, in addition to any filing or service fees which may apply))~~. All license fees shall be paid on or before the first day of July of each and every year or on the annual license expiration date as the secretary of state may establish under this title.

Sec. 19. Section 122, chapter 53, Laws of 1965 as last amended by section 50, chapter 35, Laws of 1982 and RCW 23A.32.140 are each amended to read as follows:

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

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

(2) That the corporation is not transacting business in this state.

(3) That the corporation surrenders its authority to transact business in this state.

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

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

~~(6) ((A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of the application.~~

~~(7) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of the application.~~

~~(8) A statement, expressed in dollars, of the amount of stated capital of the corporation, as of the date of the application.~~

~~(9))~~ Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess any unpaid fees payable by the foreign corporation under this title.

~~((+0))~~ (7) If a copy of a revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the application for withdrawal.

The application for withdrawal shall be made in the form prescribed by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee.

Sec. 20. Section 51, chapter 53, Laws of 1965 as last amended by section 12, chapter 35, Laws of 1982 and RCW 23A.40.032 are each amended to read as follows:

(1) Every domestic corporation organized under this title on or after July 1, 1982, shall file an initial report with the secretary of state within thirty days of the date its officers are first elected, containing the information described in subsections (2)(a) through (2)(e) of this section.

(2) In addition, every corporation heretofore or hereafter organized under the laws of the territory or state of Washington and every foreign corporation authorized to do business in Washington shall at the time it is required to pay its annual license fee and at such additional times as it may elect, file with the secretary of state an annual report containing, as of the date of execution of the report:

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

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

(c) A brief description of the business, if any, which the corporation is conducting, or, in the case of a foreign corporation, which the corporation is conducting in this state.

(d) The address of the principal place of business of the corporation in the state.

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

(3) Every report required by this section shall be executed by an officer or director on behalf of the corporation except that the initial report of a domestic corporation may be executed by an incorporator. If the secretary of state finds that the annual report substantially conforms to law, the secretary of state shall, when all the fees have been paid as in this title described, file the same.

(4) The secretary of state may prescribe, by rule adopted under chapter 34.04 RCW, the form to be used to make the annual report. The secretary of state may provide that correction or updating of information appearing on previous annual filings is sufficient to constitute the current annual filing.

~~((5) If any corporation shall fail to file or complete a report required by subsection (2) of this section there shall become due and owing to the state of Washington the sum of five dollars per month for each month or part of a month that the annual report is delinquent, to a maximum of fifty dollars, which sum shall be paid to the secretary of state.))~~

Sec. 21. Section 137, chapter 53, Laws of 1965 as last amended by section 61, chapter 35, Laws of 1982 and RCW 23A.40.040 are each amended to read as follows:

Every domestic corporation, except one for which existing law provides a different fee schedule, shall pay for filing of its articles of incorporation and its first year's license a fee of ((sixty-five)) one hundred seventy-five dollars ((for the first fifty thousand dollars or less, of its authorized capital stock; and an additional one dollar and twenty-five cents for each additional one thousand dollars or fraction thereof on all amounts in excess of fifty thousand dollars and not exceeding one million dollars; an additional fifty cents for each additional one thousand dollars or fraction thereof on all amounts in excess of one million dollars, and not exceeding four million dollars; and an additional twenty-five cents for each additional one thousand dollars or fraction thereof on all amounts in excess of four million dollars; but in no case shall the amount exceed seven thousand dollars.

Every domestic corporation, except one for which existing law provides a different fee schedule, desiring to file in the office of the secretary of state, articles amendatory or supplemental articles increasing its capital stock, or certificates of increase of capital stock, shall pay to the secretary of state the fees hereinabove in this section provided, in proportion to such increased capital stock upon the actual amount of such increase, in addition to such other fees as may be due for the filing made)).

Sec. 22. Section 139, chapter 53, Laws of 1965 as last amended by section 63, chapter 35, Laws of 1982 and RCW 23A.40.060 are each amended to read as follows:

For the privilege of doing business, every corporation organized under the laws of this state, except the corporations for which existing law provides a different fee schedule, shall make and file a statement in the form prescribed by the secretary of state and shall pay an annual license fee each year following incorporation, on or before the expiration date of its corporate license, to the secretary of state. The secretary of state shall collect, for the use of the state, an annual license fee of ((forty-five)) fifty dollars ((for the first fifty thousand dollars or less of the corporation's authorized capital stock; and an additional sixty-three cents for each additional one thousand dollars or fraction thereof on all amounts in excess of fifty thousand dollars; and not exceeding one million dollars; and an additional twenty-five cents for each additional thousand dollars or fraction thereof on all amounts in excess of one million dollars; and not exceeding four million dollars; and an additional thirteen cents for each additional one thousand dollars or fraction thereof on all amounts in excess of four million dollars; but in no case shall an annual license fee exceed the sum of three thousand five hundred dollars)).

Sec. 23. Section 140, chapter 53, Laws of 1965 as last amended by section 64, chapter 35, Laws of 1982 and RCW 23A.40.070 are each amended to read as follows:

In the event any corporation, foreign or domestic, shall do business in this state without having paid its annual license fee or substantially completed its annual report when due, there shall become due and owing the state of Washington a penalty of twenty-five dollars. ~~((For corporations with one hundred thousand dollars or less authorized capital, the penalty shall be five dollars per month for each month or part of a month that the license fee remains unpaid to a maximum of fifty dollars. For corporations with more than one hundred thousand dollars authorized capital, the penalty shall be fifteen percent per month of the license fee, computed from the date the license fee should have been paid:))~~

A corporation organized under this title may at any time prior to its dissolution as provided in RCW 23A.28.125, and a foreign corporation qualified to do business in this state may at any time prior to the revocation of its certificate of authority as provided in RCW 23A.32.160, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty specified in this section.

Sec. 24. Section 165, chapter 53, Laws of 1965 as last amended by section 24, chapter 75, Laws of 1984 and RCW 23A.98.030 are each amended to read as follows:

Nothing contained in this title as now or hereafter amended shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections (2) and (12) of RCW 23A.40.020, subsections (1) and (2) of RCW 23A.40.030, and RCW 23A.40.040, ~~((23A.40.050;))~~ 23A.40.060, 23A.40.070, 23A.40.080, ~~((23A.40.090;))~~ 23A.32.073 and 23A.32.075 shall be deemed to be a continuation of chapter 70, Laws of 1937, as amended, for the purpose of payment of:

(1) World's fair bonds authorized by chapter 174, Laws of 1957 as amended by chapter 152, Laws of 1961; and

(2) Outdoor recreation bonds authorized by referendum bill number 11 (chapter 12, Laws of 1963 extraordinary session), approved by the people on November 3, 1964.

NEW SECTION. Sec. 25. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 53, Laws of 1965, section 8, chapter 75, Laws of 1984 and RCW 23A.08.160;

(2) Section 24, chapter 53, Laws of 1965 and RCW 23A.08.210;

(3) Section 47, chapter 53, Laws of 1965 and RCW 23A.08.440;

(4) Section 55, chapter 35, Laws of 1982 and RCW 23A.32.077;

(5) Section 20, chapter 75, Laws of 1984 and RCW 23A.32.079;

(6) Section 22, chapter 75, Laws of 1984 and RCW 23A.40.037;

(7) Section 138, chapter 53, Laws of 1965, section 62, chapter 35, Laws of 1982 and RCW 23A.40.050; and

(8) Section 142, chapter 53, Laws of 1965 and RCW 23A.40.090.

NEW SECTION. Sec. 26. The sum of two thousand five hundred dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the secretary of state to notify corporations formed before 1933 of the provisions of RCW 23A.28.135.

Passed the Senate March 8, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 291

[Substitute Senate Bill No. 4361]

CENTENNIAL COMMISSION—MEMBERSHIP INCREASED—PROGRAM ELEMENTS MODIFIED

AN ACT Relating to the centennial commission; amending RCW 27.60.020, 27.60.040, and 27.60.060; and adding a new section to chapter 27.60 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 90, Laws of 1982 as amended by section 1, chapter 120, Laws of 1984 and RCW 27.60.020 are each amended to read as follows:

(1) There is established the 1989 Washington centennial commission composed of (~~fifteen~~) twenty-five members selected as follows:

(a) (~~Two~~) Four members of the house of representatives appointed by the speaker of the house, (~~one~~) two from each political party;

(b) (~~Two~~) Four members of the senate appointed by the president of the senate, (~~one~~) two from each political party;

(c) (~~Eleven~~) Seventeen citizens of the state, appointed by and serving at the pleasure of the governor, including a person from a minority culture to represent the state's minority communities, at least one person to represent small towns and rural areas, at least one person representing a state-wide historic preservation organization, and at least one person representing a state historical society.

(2) The chairperson of the commission shall be appointed by the governor from among the citizen members.

(3) The commission shall meet at such times as it is called by the governor or by the chairperson of the commission.

Sec. 2. Section 4, chapter 90, Laws of 1982 and RCW 27.60.040 are each amended to read as follows:

The 1989 Washington centennial commission shall develop a comprehensive program for celebrating the centennial of Washington's admission to the union in 1889. The program shall be developed to represent the contributions of all peoples and cultures to Washington state history and to the

maximum feasible extent shall be designed to encourage and support participation in the centennial by all interested communities in the state. Program elements shall include:

(1) An annual report to the governor and the legislature incorporating the commission's specific recommendations for the centennial celebration. The report shall recommend projects and activities including, but not limited to:

(a) Restoration of historic properties, with emphasis on those properties appropriate for use in the observance of the centennial;

(b) State and local historic preservation programs and activities;

(c) State and local archaeological programs and activities;

(d) Publications, films, and other educational materials;

~~((d))~~ (e) Bibliographical and documentary projects;

~~((e))~~ (f) Conferences, lectures, seminars, and other programs;

~~((f))~~ (g) Museum, library, cultural center, and park improvements, services, and exhibits, including mobile exhibits; (and

~~(g))~~ (h) Destination tourism attractions. Such destination tourism attractions (i) shall be based upon the heritage of the state, (ii) shall be sponsored and owned by the state, a municipal corporation thereof, or a nonprofit corporation which has qualified under section 501(c)(3) of the federal internal revenue code, and (iii) shall satisfy economic development criteria established in cooperation with the director of the department of commerce and economic development in accordance with the administrative procedure act, chapter 34.05, RCW; and

(i) Ceremonies and celebrations.

(2) ~~((A funding proposal to the 1983 legislature which shall include, but not be limited to, a proposal for the issuance of general obligation bonds of the state of Washington))~~ The implementation of programs as supported by legislative appropriation, gifts and grants provided for the purposes of this chapter, and earned income as provided in RCW 27.60.060, for a Pacific celebration, centennial games, centennial publications, audio-visual productions, and local celebrations throughout the state.

Sec. 3. Section 2, chapter 120, Laws of 1984 and RCW 27.60.060 are each amended to read as follows:

Subject to existing state law, the commission may disburse legislatively appropriated funds for commemorative programs and activities. It may accept gifts or grants from public or private sources and deposit the same in the centennial fund which is hereby created in the custody of the state treasurer. It may generate earned income through contractual licensing of its symbol and other centennial-related identification and insignia for use in commercially manufactured commemorative products and through other activities, or grant use of the symbol in recognition of services provided, and deposit the same in the centennial fund. ~~((Gifts, grants, and earned income~~

~~shall be retained in a separate account within the general))~~ Legislative appropriation is required for the disbursement of moneys in the centennial fund except for those moneys derived from gifts or grants deposited in the centennial fund for use by the commission in the support of commemorative programs and activities defined but not limited by RCW 27.60.040((f)-(g)) through (g)). Funds not expended by December 31, 1990, shall ~~((revert to))~~ be deposited in the general fund.

NEW SECTION. Sec. 4. A new section is added to chapter 27.60 RCW to read as follows:

(1) The 1989 Washington centennial commission shall implement or assist in the implementation of a program to observe the two hundredth anniversary of the adoption of the United States Constitution and the one hundredth anniversary of the adoption of the state Constitution. This program shall be designed to promote public education concerning the United States Constitution and the state Constitution and shall include the development of opportunities to explore the relationship between the federal and state Constitutions.

(2) In carrying out its responsibilities under this section, the commission may cooperate with, assist, or sponsor private organizations which are conducting programs consistent with this chapter. Such assistance may include securing the necessary recognition, support, and financial resources to ensure implementation of these educational programs on a state-wide basis.

(3) The commission may appoint an advisory committee for the purpose of advising the commission on matters relating to its duties under this section.

Passed the Senate April 24, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 292

[Substitute Senate Bill No. 3179]

ANNUAL LEAVE CASH OUT

AN ACT Relating to annual leave; and amending RCW 43.01.041.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43.01.041, chapter 8, Laws of 1965 as last amended by section 20, chapter 184, Laws of 1984 and RCW 43.01.041 are each amended to read as follows:

Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, and who have accrued vacation leave as specified in RCW

43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Annual leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits.

Should the legislature revoke any benefits or rights provided under this 1985 act, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 293

[Substitute Senate Bill No. 3468]

HANFORD CANDIDATE SITE—NUCLEAR WASTE BOARD TO MONITOR PROCESS

AN ACT Relating to radioactive waste disposal; amending RCW 43.200.015 and 43.200.150; adding new sections to chapter 43.200 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 161, Laws of 1984 and RCW 43.200.015 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board" means the nuclear waste board established in RCW 43.200.040.

(2) "Federal department of energy" means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste.

(3) "Nuclear regulatory commission" means the United States nuclear regulatory commission or any successor agency responsible for approving construction of a repository for the long-term disposal of high-level radioactive waste and spent nuclear fuel.

(4) "Hanford candidate site" means the site identified by the United States department of energy as a potentially acceptable site for the disposal of spent nuclear fuel and high-level radioactive waste pursuant to the nuclear waste policy act of 1982.

(5) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

~~((4))~~ (6) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include

waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

(7) "Radioactive waste" means both high-level and low-level radioactive waste.

(8) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

(9) "Department" means the department of ecology.

NEW SECTION. Sec. 2. A new section is added to chapter 43.200 RCW to read as follows:

The board shall monitor and evaluate the research performed by the federal department of energy that is undertaken for the purpose of determining the suitability of the Hanford candidate site for the location of a disposal facility for spent nuclear fuel and high-level radioactive waste. If the board is dissatisfied with the research performed by the federal department of energy, it shall conduct its own independent testing and evaluation activities, for which it shall seek funding from the federal government. The board shall report semiannually to the governor and the Washington state legislature on the results of research conducted under this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.200 RCW to read as follows:

(1) The board shall undertake studies: (a) To determine any potential economic, social, public health and safety, and environmental impacts of a repository for the long-term disposal of high-level radioactive waste and spent nuclear fuel on the state and its residents; (b) of the risks to the citizens of this state associated with the transportation of radioactive wastes by whatever mode into and through the state of Washington. The study shall include recommendations for state and local authorities on alternative routes for transportation of radioactive wastes which shall be developed in accordance with 49 C.F.R. part 177, appendix A. The study shall also examine the responsibilities and capabilities of state, local, and federal agencies to respond to transportation accidents involving radioactive waste and develop recommendations for improvement where needed to best protect the public health and safety. Progress reports on the study shall be made at each meeting of the board. The board shall set a completion date for the study to coincide with the need to establish state or local routing alternatives in accordance with the federal hazardous materials transportation act; (c) of the potential impacts of siting a repository for the long-term storage or disposal of high-level radioactive waste and spent nuclear fuel at the Hanford candidate site on the financial and technical resources of all affected state agencies and local governments. The board shall commence this study as soon as practicable and shall report on its progress in its semiannual reports required by RCW 43.200.020.

(2) The board shall develop a request for impact assistance to be submitted in the event the Nuclear Regulatory Commission approves construction of a repository at the Hanford candidate site.

(3) The board may undertake any other studies or activities for which it shall seek funding from the federal government.

Sec. 4. Section 14, chapter 161, Laws of 1984 and RCW 43.200.150 are each amended to read as follows:

The department shall provide administrative and technical staff support as requested by the board. As directed by the board, the department shall be responsible for obtaining and coordinating technical expertise necessary for board participation in nuclear waste programs and shall be responsible for ongoing technical coordination and administration of program activities. Other state agencies shall assist the board in fulfilling its duties to the fullest extent possible. The board and/or the department may contract with other state agencies to obtain expertise or input uniquely available from that agency. The board may contract with private parties to obtain expertise or input necessary to perform any study required in this chapter, for which it shall seek funding from the federal government.

NEW SECTION. Sec. 5. A new section is added to chapter 43.200 RCW to read as follows:

The board shall seek federal funds pursuant to the nuclear waste policy act of 1982, section 116 (P.L. 97-425), for the activities authorized by this act. In the event federal funds are not granted, the board shall investigate potential legal causes of action.

NEW SECTION. Sec. 6. A new section is added to chapter 43.200 RCW to read as follows:

This chapter may be known and cited as the Radioactive Waste Act.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 294

[Engrossed Senate Bill No. 3852]

JOINT LEGISLATIVE COMMITTEE ON CHILD SUPPORT REPEALED

AN ACT Relating to the joint legislative committee on child support; and repealing section 36, chapter 260, Laws of 1984 (uncodified); repealing section 37, chapter 260, Laws of 1984 (uncodified); repealing section 38, chapter 260, Laws of 1984 (uncodified); and repealing section 39, chapter 260, Laws of 1984 (uncodified).

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) Section 36, chapter 260, Laws of 1984 (uncodified);
- (2) Section 37, chapter 260, Laws of 1984 (uncodified);
- (3) Section 38, chapter 260, Laws of 1984 (uncodified); and
- (4) Section 39, chapter 260, Laws of 1984 (uncodified).

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 295

[Substitute Senate Bill No. 3882]

STATE ARMORIES—RENTAL CHARGES INCLUDE CLEANING DEPOSIT AND UTILITY COSTS

AN ACT Relating to rental of state-owned armories; and amending RCW 38.20.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 93, chapter 130, Laws of 1943 as last amended by section 1, chapter 268, Laws of 1983 and RCW 38.20.010 are each amended to read as follows:

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

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

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

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

(4) The adjutant general may, upon the recommendation of the executive head or governing body of a county, city or town, permit transient lodging of anyone in armories. The adjutant general may require the county, city or town to pay no more than the actual cost of staffing, heating, lighting and other miscellaneous expenses incidental to this use.

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

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

The adjutant general shall prepare a schedule of rental charges, including a cleaning deposit, and utility costs for each state-owned armory which may not be waived except for activities ~~((of))~~ sponsored by the organized militia or activities provided for in subsection (4) of this section. ~~((No state-owned armory may be rented for a term longer than that between regularly authorized formations of units of the organized militia using the armory.))~~ The ~~((revenue))~~ rental charges derived from armory rentals less the cleaning deposit shall be paid into the state general fund.

Passed the Senate April 22, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 296

[Engrossed Substitute Senate Bill No. 3898]

OCCUPATIONAL THERAPY

AN ACT Relating to occupational therapy; amending RCW 18.59.040; adding new sections to chapter 43.131 RCW; and repealing RCW 18.59.010, 18.59.020, 18.59.030, 18.59.040, 18.59.050, 18.59.060, 18.59.070, 18.59.080, 18.59.090, 18.59.100, 18.59.110, 18.59.120, 18.59.130, 18.59.140, 18.59.150, 18.59.200, 18.59.900, and 18.59.905.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 9, Laws of 1984 and RCW 18.59.040 are each amended to read as follows:

This chapter shall not be construed as preventing or restricting the practice, services, or activities of:

(1) A person licensed in this state under any other law from engaging in the profession or occupation for which the person is licensed;

(2) A person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the directions or control of the organization by which the person is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program if the activities and services constitute a part of a supervised course of

study, if the person is designated by a title which clearly indicated the person's status as a student or trainee;

(4) A person fulfilling the supervised fieldwork experience requirements of RCW 18.59.050, if the activities and services constitute a part of the experience necessary to meet the requirements of RCW 18.59.050;

(5) A person performing occupational therapy services in the state, if the services are performed for no more than ninety working days and if:

(a) The person is licensed under the laws of another state which has licensure requirements at least as stringent as the requirements of this chapter, as determined by the board; or

(b) The person has met commonly accepted standards for the practice of occupational therapy as specifically defined by the board;

(6) A person employed by or supervised by an occupational therapist as an occupational therapy aide; ((or))

(7) A person with a limited permit. A limited permit may be granted to persons who have completed the education and experience requirements of this chapter, or education and experience requirements which the board deems equivalent to those specified as requirements for licensure. The limited permit allows the applicant to practice in association with an occupational therapist. The limited permit is valid until the results of the next examination have been made public. One extension of this permit may be granted if the applicant has failed the examination, but during this period the person shall be under the direct supervision of an occupational therapist;

(8) Any persons who teach daily living skills, develop prevocational skills, and play and avocational capabilities, or adapt equipment or environments for the handicapped, or who do specific activities to enhance cognitive, perceptual motor, sensory integrative and psychomotor skills, but who do not hold themselves out to the public by any title, initials, or description of services as being engaged in the practice of occupational therapy; or

(9) Any person who designs, fabricates, or applies orthotic or prosthetic devices which are prescribed by a health care professional authorized by the laws of the state of Washington to prescribe the device or to direct the design, fabrication or application of the device.

NEW SECTION. Sec. 2. A new section is added to chapter 43.131 RCW to read as follows:

The regulation of occupational therapy under chapter 18.59 RCW shall be terminated on June 30, 1990, as provided in section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts are each repealed, effective June 30, 1991:

- (1) Section 2, chapter 9, Laws of 1984 and RCW 18.59.010;
- (2) Section 3, chapter 9, Laws of 1984 and RCW 18.59.020;
- (3) Section 4, chapter 9, Laws of 1984 and RCW 18.59.030;

- (4) Section 5, chapter 9, Laws of 1984 and RCW 18.59.040;
- (5) Section 6, chapter 9, Laws of 1984 and RCW 18.59.050;
- (6) Section 7, chapter 9, Laws of 1984 and RCW 18.59.060;
- (7) Section 8, chapter 9, Laws of 1984 and RCW 18.59.070;
- (8) Section 9, chapter 9, Laws of 1984 and RCW 18.59.080;
- (9) Section 10, chapter 9, Laws of 1984 and RCW 18.59.090;
- (10) Section 11 chapter 9, Laws of 1984 and RCW 18.59.100;
- (11) Section 12, chapter 9, Laws of 1984, section 58, chapter ... (SB 3041), Laws of 1985 and RCW 18.59.110;
- (12) Section 13, chapter 9, Laws of 1984 and RCW 18.59.120;
- (13) Section 14, chapter 9, Laws of 1984 and RCW 18.59.130;
- (14) Section 17, chapter 9, Laws of 1984 and RCW 18.59.140;
- (15) Section 15, chapter 9, Laws of 1984 and RCW 18.59.150;
- (16) Section 16, chapter 9, Laws of 1984 and RCW 18.59.200;
- (17) Section 1, chapter 9, Laws of 1984 and RCW 18.59.900; and
- (18) Section 21, chapter 9, Laws of 1984 and RCW 18.59.905.

Passed the Senate April 23, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 297

[Engrossed Substitute Senate Bill No. 3904]

SELF-MEDICATION IN BOARDING HOMES

AN ACT Relating to self-medication; and amending RCW 18.20.010 and 18.20.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 253, Laws of 1957 and RCW 18.20.010 are each amended to read as follows:

The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of boarding homes, which, in the light of advancing knowledge, will promote safe and adequate care of the individuals therein. It is further the intent of the legislature that boarding homes be available to meet the needs of those for whom they care by recognizing the capabilities of individuals to direct their self-medication or to use supervised self-medication techniques when ordered and approved by a physician licensed under chapter 18.57 or 18.71 RCW or a podiatrist licensed under chapter 18.22 RCW.

Sec. 2. Section 16, chapter 253, Laws of 1957 as amended by section 1, chapter 43, Laws of 1975 1st ex. sess. and RCW 18.20.160 are each amended to read as follows:

No person operating a boarding home licensed under this chapter shall admit to or retain in the boarding home any aged person requiring nursing

or medical care of a type provided by institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except that when registered nurses are available (~~from a visiting nurse service or home health agency or from an adjacent or nearby skilled nursing facility or one located in the facility~~), and upon a doctor's order that a supervised medication service is needed, it may be provided. Supervised medication services, as defined by the department, may include an approved program of self-medication or self-directed medication. Such medication service shall be provided only to (~~ambulatory~~) boarders who otherwise meet all requirements for residency in a boarding home.

Passed the Senate April 23, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 298

[Senate Bill No. 4129]

WORK RELEASE

AN ACT Relating to jail work release; and amending RCW 70.48.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 17, chapter 232, Laws of 1979 ex. sess. as amended by section 39, chapter 165, Laws of 1983 and RCW 70.48.210 are each amended to read as follows:

(1) All cities and counties are authorized to establish and maintain farms, camps, and work release programs and facilities, as well as special detention facilities. The facilities shall meet the requirements of chapter 70.48 RCW and any rules adopted thereunder.

(2) Farms and camps may be established either inside or outside the territorial limits of a city or county. A sentence of confinement in a city or county jail may include placement in a farm or camp. Unless directed otherwise by court order, the chief law enforcement officer or department of corrections, may transfer the prisoner to a farm or camp. The sentencing court, chief law enforcement officer, or department of corrections may not transfer to a farm or camp a greater number of prisoners than can be furnished with constructive employment and can be reasonably accommodated.

(3) The city or county may establish a city or county work release program and housing facilities for the prisoners in the program. In such regard, factors such as employment conditions and the condition of jail facilities should be considered. When a work release program is established the following provisions apply:

(a) A person convicted of a felony and placed in a city or county jail is eligible for the work release program. A person sentenced to a city or county jail is eligible for the work release program. The program may be used as a condition of probation for a criminal offense. Good conduct is a condition of participation in the program.

(b) The court may permit a person who is currently, regularly employed to continue his or her employment. The chief law enforcement officer or department of corrections shall make all necessary arrangements if possible. The court may authorize the person to seek suitable employment and may authorize the chief law enforcement officer or department of corrections to make reasonable efforts to find suitable employment for the person. A person participating in the work release program may not work in an establishment where there is a labor dispute.

(c) The work release prisoner shall be confined in a work release facility or jail ~~((whenever the prisoner is not employed and between the hours or periods of employment))~~ unless authorized to be absent from the facility for program-related purposes, unless the court directs otherwise.

(d) Each work release prisoner's earnings may be collected by the chief law enforcement officer or a designee. The chief law enforcement officer or a designee ~~((shall collect the work release prisoner's earnings and from the earnings make))~~ may deduct from the earnings moneys for the payments for the prisoner's board, personal expenses inside and outside the jail, ((and)) a share of the administrative expenses of this section, court-ordered victim compensation, and court-ordered restitution. Support payments for the prisoner's dependents, if any, shall be made as directed by the court. With the prisoner's consent, the remaining funds may be used to pay the prisoner's preexisting debts. Any remaining balance shall be ((retained and paid)) returned to the prisoner ((when the prisoner is discharged)).

(e) With court approval the prisoner's sentence may be reduced by ~~((one-fourth))~~ one-third if the prisoner's conduct, diligence, and general attitude merit the reduction.

(f) If the work release prisoner violates the conditions of custody or employment, the prisoner shall be returned to the sentencing court. The sentencing court may require the prisoner to spend the remainder of the sentence in actual confinement and may cancel any earned reduction of the sentence.

(4) A special detention facility may be operated by a noncorrectional agency or by noncorrectional personnel by contract with the governing unit. The employees shall meet the standards of training and education established by the criminal justice training commission as authorized by RCW 43.101.080. The special detention facility may use combinations of features including, but not limited to, low-security or honor prisoner status, work farm, work release, community review, prisoner facility maintenance and

food preparation, training programs, or alcohol or drug rehabilitation programs (~~(, with or without cost to the prisoners)~~). Special detention facilities may establish a reasonable fee schedule to cover the cost of facility housing and programs. The schedule shall be on a sliding basis that reflects the person's ability to pay.

Passed the Senate April 23, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 299

[Senate Bill No. 4288]

UNEMPLOYMENT COMPENSATION—ON-THE-JOB TRAINING— EXPERIENCE RATING ACCOUNT CHARGES

AN ACT Relating to unemployment compensation; amending RCW 50.29.020; and adding a new section to chapter 50.12 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 2, Laws of 1970 ex. sess. as last amended by section 7, chapter 205, Laws of 1984 and RCW 50.29.020 are each amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except those employers whose employees are covered under chapter 50.44 RCW, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers whose employees are not covered under chapter 50.44 RCW, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12-.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

(d) Benefits paid which represent the state's share of benefits payable under chapter 50.22 RCW shall not be charged to the experience rating account of any contribution paying employer.

(e) Benefits paid to a claimant who requalifies for benefits under RCW 50.20.050 or 50.20.060 shall not be charged to the experience rating account of the contribution paying employer with whom the disqualifying separation took place.

(f) Benefits paid to an individual as the result of a determination by the commissioner that no stoppage of work exists, pursuant to RCW 50.20.090, shall not be charged to the experience rating account of any contribution paying employer.

(g) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

(h) Benefits paid to an individual who does not successfully complete an approved on-the-job training program under section 2 of this 1985 act shall not be charged to the experience rating account of the contribution paying employer who provided the approved on-the-job training.

NEW SECTION. Sec. 2. A new section is added to chapter 50.12 RCW to read as follows:

The commissioner may establish by rule qualifications for employers who agree to provide on-the-job training for new employees.

Passed the Senate March 19, 1985.

Passed the House April 19, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 300

[Substitute Senate Bill No. 3220]

AUTOPSIES

AN ACT Relating to autopsies; and amending RCW 68.08.105.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9, chapter 188, Laws of 1953 as amended by section 2, chapter 79, Laws of 1977 and RCW 68.08.105 are each amended to read as follows:

Reports and records of autopsies or post mortems shall be confidential, except ((to)) that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician,

the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, or to the department of labor and industries in cases in which it has an interest under RCW 68.08.103.

The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or post mortem. For the purposes of this section, the term "family" means the surviving spouse, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death.

Passed the Senate March 5, 1985.

Passed the House April 24, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 301

[Senate Bill No. 3225]

AFRICAN DEVELOPMENT BANK—INVESTMENTS BY FINANCIAL INSTITUTIONS

AN ACT Relating to the African Development Bank; adding a new section to chapter 30.04 RCW; adding a new section to chapter 32.20 RCW; and adding a new section to chapter 33.24 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 32.20 RCW to read as follows:

A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the African Development Bank or in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates.

NEW SECTION. Sec. 2. A new section is added to chapter 30.04 RCW to read as follows:

Any bank or trust company may invest in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates. Such investment in any one multilateral development bank shall not exceed five percent of the bank's or trust company's paid-in capital and surplus.

NEW SECTION. Sec. 3. A new section is added to chapter 33.24 RCW to read as follows:

An association may invest in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates. Such investment in any one multilateral development bank shall not exceed five percent of the association's assets.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 302

[Senate Bill No. 3267]

DRIVERS' LICENSES—DRIVING WITHOUT A VALID LICENSE—
SUSPENSION—REVOCATION—DRIVING WHILE INTOXICATED—
REVISIONS

AN ACT Relating to drivers' licenses; amending RCW 46.20.315, 46.20.021, 46.20.342, 46.20.416, 46.20.420, 46.52.100, 46.63.020, and 46.65.090; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.315 are each amended to read as follows:

The department upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the department (~~((except that at the end of the period of suspension such license so surrendered shall be returned to the licensee))~~).

Sec. 2. Section 2, chapter 121, Laws of 1965 ex. sess. as amended by section 53, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.021 are each amended to read as follows:

(1) No person, except ~~((those hereinafter))~~ as expressly exempted ~~((shall))~~ by this chapter, may drive any motor vehicle upon a highway in this state unless ~~((such))~~ the person has a valid driver's license issued under the provisions of this chapter. A violation of this subsection is a misdemeanor and is a lesser included offense within the offenses described in RCW 46.20.342(1), 46.20.416, 46.20.420, and 46.65.090.

(2) No person shall receive a driver's license unless and until he surrenders to the department all valid driver's licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time. ~~((Violation of the provisions of this section is a misdemeanor.~~

~~((2))~~ (3) Any person licensed as a driver ~~((hereunder))~~ under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license

to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

Sec. 3. Section 3, chapter 148, Laws of 1980 and RCW 46.20.342 are each amended to read as follows:

(1) Any person who drives a motor vehicle on any public highway of this state (~~(at a time)~~) when his privilege so to do is suspended or revoked in this or any other state or when his policy of insurance or bond, when required under this chapter, (~~(shall have)~~) has been canceled or terminated, (~~(shall be)~~) is guilty of a gross misdemeanor(~~(- PROVIDED, That the offenses described in RCW 46.20.021 and 46.20.190, as now or hereafter amended, are lesser included offenses within the offense described by this section)~~). Upon the first conviction (~~(therefor, he)~~) for a violation of this section, a person shall be punished by imprisonment for not less than ten days nor more than six months. Upon the second such conviction (~~(therefor)~~), he shall be punished by imprisonment for not less than ninety days nor more than one year. Upon the third or subsequent such conviction (~~(therefor)~~), he shall be punished by imprisonment for not less than one year. There may also be imposed in connection with each such conviction a fine of not more than five hundred dollars.

(2) (~~The department~~) Except as otherwise provided in this subsection, upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section upon a charge of driving a vehicle while the license of such person is under suspension, the department shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license. The department shall not so extend the period of suspension or revocation if the court recommends against the extension and:

(a) The convicted person has obtained a valid driver's license; or

(b) The department determines that the convicted person has demonstrated proof of future financial responsibility as provided for in chapter 46.29 RCW, and, if the suspension or revocation was the result of a violation of RCW 46.61.502 or 46.61.504, that the person is making satisfactory progress in any required alcoholism treatment program.

Sec. 4. Section 3, chapter 29, Laws of 1975-'76 2nd ex. sess. and RCW 46.20.416 are each amended to read as follows:

Any person who drives a motor vehicle on any public highway of this state while that person is in a suspended or revoked status (~~(shall be)~~) is guilty of a gross misdemeanor. (~~Upon a first conviction therefor, the person shall be punished by imprisonment of not less than ten days, nor more than six months. Upon the second such conviction therefor, the person shall be punished by imprisonment of not less than twenty days, nor more than one~~

~~year. Upon the third such conviction therefor, the person shall be punished by imprisonment for one year. There may also be imposed in connection with each conviction a fine of not more than five hundred dollars.))~~ First, second, third, and subsequent violations of this section shall be punished in the same way as violations of RCW 46.20.342(1).

Sec. 5. Section 2, chapter 134, Laws of 1961 as amended by section 35, chapter 32, Laws of 1967 and RCW 46.20.420 are each amended to read as follows:

Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this title shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this chapter. First, second, third, and subsequent violations of this section shall be punished in the same way as violations of RCW 46.20.342(1).

Sec. 6. Section 12, chapter 2, Laws of 1983 and RCW 46.52.100 are each amended to read as follows:

Every justice of the peace, police judge, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to said justice of the peace, police judge, superior court, or a traffic violations bureau, and shall keep a record of every official action by said court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every said traffic complaint, citation, or notice of infraction deposited with or presented to the justice of the peace, police judge, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every said magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of said court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

Said abstract must be made upon a form furnished by the director and shall include the name and address of the party charged, the number, if any, of his driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the

judgment, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at his office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all justice courts shall be before one of the two nearest justices of the peace in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties of class A and of the first class such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

~~((If the driver at the time of the offense charged was without a driver's license because of a previous suspension or revocation, the minimum mandatory jail sentence and fine shall be ninety days in the county jail and a two hundred dollar fine. The penalty so imposed shall not be suspended.))~~

Sec. 7. Section 12, chapter 10, Laws of 1982 as amended by section 6, chapter 164, Laws of 1983 and RCW 46.63.020 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

- (4) RCW 46.10.130 relating to the operation of snowmobiles;
- (5) Chapter 46.12 RCW relating to certificates of ownership and registration;
- (6) RCW 46.16.160 relating to vehicle trip permits;
- (7) RCW 46.20.021 relating to driving without a valid driver's license;
- (8) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (9) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (10) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (11) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- (12) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- ~~((12))~~ (13) Chapter 46.29 RCW relating to financial responsibility;
- ~~((13))~~ (14) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- ~~((14))~~ (15) RCW 46.48.175 relating to the transportation of dangerous articles;
- ~~((15))~~ (16) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- ~~((16))~~ (17) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- ~~((17))~~ (18) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- ~~((18))~~ (19) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- ~~((19))~~ (20) RCW 46.52.108 relating to disposal of abandoned vehicles or hulks;
- ~~((20))~~ (21) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- ~~((21))~~ (22) RCW 46.52.210 relating to abandoned vehicles or hulks;
- ~~((22))~~ (23) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((23))~~ (24) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((24))~~ (25) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((25))~~ (26) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((26))~~ (27) RCW 46.61.500 relating to reckless driving;
- ~~((27))~~ (28) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((28))~~ (29) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((29))~~ (30) RCW 46.61.522 relating to vehicular assault;

~~((30))~~ (31) RCW 46.61.525 relating to negligent driving;

~~((31))~~ (32) RCW 46.61.530 relating to racing of vehicles on highways;

~~((32))~~ (33) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((33))~~ (34) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((34))~~ (35) RCW 46.64.020 relating to nonappearance after a written promise;

~~((35))~~ (36) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((36))~~ (37) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((37))~~ (38) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((38))~~ (39) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((39))~~ (40) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((40))~~ (41) Chapter 46.82 RCW relating to driver's training schools.

Sec. 8. Section 11, chapter 284, Laws of 1971 ex. sess. as last amended by section 6, chapter 62, Laws of 1979 and RCW 46.65.090 are each amended to read as follows:

(1) It ~~((shall be))~~ is unlawful for any person to operate a motor vehicle in this state while the order of revocation remains in effect. Any person found to be an habitual offender under the provisions of this chapter who is ~~((thereafter))~~ convicted of operating a motor vehicle in this state while the order of revocation prohibiting such operation is in effect ~~((shall be))~~ is guilty of a gross misdemeanor~~((, the punishment for which shall be confinement in the county jail for not more than one year. PROVIDED, That any person who is convicted for the offense of operating a motor vehicle while under the influence of intoxicating liquor or drugs as defined in RCW 46.61.506, or the offense of failure to stop and give information or render aid as required in RCW 46.52.020, and is also convicted of operating a motor vehicle while the order of revocation is in effect, shall be confined in the county jail for not less than thirty days nor more than one year, and such sentence)).~~ First, second, third, and subsequent violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1), except that the minimum sentence of confinement required shall not be suspended or deferred.

(2) Any person convicted for a first violation of subsection (1) of this section who is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, shall be punished in the same way as provided in RCW 46.20.342(1) except that the minimum sentence of confinement shall be not less than thirty days and shall not be suspended or deferred.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 303

[Substitute Senate Bill No. 3254]
DOMESTIC VIOLENCE

AN ACT Relating to domestic violence; amending RCW 26.50.020, 26.50.030, 26.50.035, 26.50.040, 26.50.060, 26.50.090, 26.50.200, 9A.36.040, 10.31.100, 10.99.040, 46.64.015, 10.99.050, 3.46.030, and 3.50.020; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 263, Laws of 1984 and RCW 26.50.020 are each amended to read as follows:

(1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(2) ~~The courts defined in RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. ((If a proceeding under chapter 26.09, 26.12, or 26.26 RCW is commenced in a superior court before or after the filing of an action in a district or municipal court under this chapter, then the superior court shall have exclusive jurisdiction over proceedings under this chapter. Any municipal or district court order entered while that court had jurisdiction remains valid until superseded by a superior court order.))~~ The jurisdiction of district or municipal courts under this chapter shall be limited to the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents a child custody or visitation issue; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(3) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(4) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

~~((5) If an action under this chapter is commenced in a district or municipal court and a petitioner or respondent contests custody or visitation rights, then, upon the motion of either party containing proof that the petition for relief under this chapter has been filed with the superior court, the district or municipal court shall dismiss the action:))~~

Sec. 2. Section 4, chapter 263, Laws of 1984 and RCW 26.50.030 are each amended to read as follows:

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(3).

(3) All court clerk's offices shall make available simplified forms and instructional brochures. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) A filing fee of twenty dollars shall be charged for proceedings under this section. No filing fee may be charged for: (a) A petition filed in an existing action or under an existing cause number brought under this chapter in the jurisdiction where the relief is sought; or (b) the transfer of a case from district or municipal court to superior court under RCW 26.50.020(2). Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

Sec. 3. Section 31, chapter 263, Laws of 1984 and RCW 26.50.035 are each amended to read as follows:

The administrator for the courts shall develop and prepare, in consultation with interested persons, the forms and instructional brochures required under RCW 26.50.030(3). ~~((These forms shall be distributed to and available for use by the court clerks before September 1, 1984:))~~ The administrator for the courts shall distribute a master copy of the forms and instructional brochures to all court clerks.

Sec. 4. Section 5, chapter 263, Laws of 1984 and RCW 26.50.040 are each amended to read as follows:

(1) Persons seeking relief under this chapter may file an application for leave to proceed in forma pauperis on forms supplied by the court. If the court determines that a petitioner lacks the funds to pay the costs of filing, the petitioner shall be granted leave to proceed in forma pauperis and no filing fee or any other court related fees shall be charged by the court to the

petitioner for relief sought under this chapter. If the petitioner is granted leave to proceed in forma pauperis, then no fees for service may be charged to the petitioner.

(2) For the purpose of determining whether a petitioner has the funds available to pay the costs of filing an action under this chapter, the income of the household or family member named as the respondent is not considered.

Sec. 5. Section 7, chapter 263, Laws of 1984 and RCW 26.50.060 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

((+)) (a) Restrain a party from committing acts of domestic violence;

((2)) (b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

((3)) (c) On the same basis as is provided in chapter 26.09 RCW, award temporary custody and establish temporary visitation with regard to minor children of the parties, and restrain any party from interfering with the custody of the minor children;

((4)) (d) Order the respondent to participate in treatment or counseling services;

((5)) (e) Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter; and

((6)) (f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

(3) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

Sec. 6. Section 10, chapter 263, Laws of 1984 and RCW 26.50.090 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter

forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

Sec. 7. Section 15, chapter 263, Laws of 1984 and RCW 26.50.200 are each amended to read as follows:

Nothing in this ((act)) chapter may affect the title to real estate; PROVIDED, That a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate to the extent provided in chapter 4.56 RCW.

Sec. 8. Section 9A.36.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 18, chapter 263, Laws of 1984 and RCW 9A.36.040 are each amended to read as follows:

(1) Every person who shall commit an assault or an assault and battery not amounting to assault in either the first, second, or third degree shall be guilty of simple assault.

(2) Simple assault is a gross misdemeanor.

~~((3) Every person convicted of three offenses under this section against a family or household member as defined in RCW 10.99.020 is guilty of a class C felony.))~~

Sec. 9. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 19, chapter 263, Laws of 1984 and RCW 10.31.100 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (4) of this section.

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

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.060, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence; or

(b) The person is eighteen years or older and within the preceding four hours has assaulted that person's spouse, former spouse, or ((other)) a person eighteen years or older with whom the person resides or has formerly resided and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

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

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

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

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

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

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

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

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

(5) Except as specifically provided in subsections (2), (3), and (4) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(6) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) if the police officer acts in good faith and without malice.

Sec. 10. Section 4, chapter 105, Laws of 1979 ex. sess. as last amended by section 22, chapter 263, Laws of 1984 and RCW 10.99.040 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any ~~((defendant))~~ person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit ~~((the defendant))~~ that person from having any contact with the victim. The ~~((arresting))~~ jurisdiction authorizing the release shall determine whether ~~((the defendant))~~ that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting ~~((the defendant))~~ that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the ~~((defendant))~~ person charged or arrested from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the ~~((defendant))~~ person charged or arrested is likely to use or display or threaten to use a deadly

weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require ~~((the defendant))~~ that person to surrender any deadly weapon in ~~((the defendant's))~~ that person's immediate possession or control, or subject to ~~((the defendant's))~~ that person's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which ~~((the defendant))~~ that person resides or to the defendant's counsel for safekeeping.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended.

(4) Wilful violation of a court order issued under subsection (2) or (3) of this section is a misdemeanor. The written order releasing the ~~((defendant))~~ person charged or arrested shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest. A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer information system in this state which is used by law enforcement agencies to list outstanding warrants.

~~((4))~~ (5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any ~~((computer-based criminal intelligence))~~ computer information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

Sec. 11. Section 46.64.015, chapter 12, Laws of 1961 as last amended by section 2, chapter 28, Laws of 1979 ex. sess. and RCW 46.64.015 are each amended to read as follows:

Whenever any person is arrested for any violation of the traffic laws or regulations which is punishable as a misdemeanor or by imposition of a fine, the arresting officer may serve upon him a traffic citation and notice to appear in court. Such citation and notice shall conform to the requirements of RCW 46.64.010, and in addition, shall include spaces for the name and address of the person arrested, the license number of the vehicle involved, the driver's license number of such person, if any, the offense or violation charged, the time and place where such person shall appear in court, and a place where the person arrested may sign. Such spaces shall be filled with the appropriate information by the arresting officer. The arrested person, in order to secure release, and when permitted by the arresting officer, must

give his written promise to appear in court as required by the citation and notice by signing in the appropriate place the written citation and notice served by the arresting officer. An officer may not serve or issue any traffic citation or notice for any offense or violation except either when the offense or violation is committed in his presence or when a person may be arrested pursuant to RCW 10.31.100, as now or hereafter amended. The detention arising from an arrest under this section may not be for a period of time longer than is reasonably necessary to issue and serve a citation and notice, except that the time limitation does not apply under any of the following circumstances:

(1) Where the arrested person refuses to sign a written promise to appear in court as required by the citation and notice provisions of this section;

(2) Where the arresting officer has probable cause to believe that the arrested person has committed any of the offenses enumerated in RCW 10.31.100(~~((2))~~)(3), as now or hereafter amended.

Sec. 12. Section 5, chapter 105, Laws of 1979 ex. sess. as amended by section 24, chapter 263, Laws of 1984 and RCW 10.99.050 are each amended to read as follows:

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2) Wilful violation of a court order issued under this section is a misdemeanor. The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

Sec. 13. Section 37, chapter 299, Laws of 1961 and RCW 3.46.030 are each amended to read as follows:

A municipal department shall have exclusive jurisdiction of matters arising from ordinances of the city, and no jurisdiction of other matters except as conferred by statute.

Sec. 14. Section 51, chapter 299, Laws of 1961 as last amended by section 104, chapter 258, Laws of 1984 and RCW 3.50.020 are each amended to read as follows:

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

NEW SECTION. Sec. 15. Sections 1 and 2 of this act shall take effect September 1, 1985.

Passed the Senate April 26, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 304

[Senate Bill No. 3085]

MOTOR VEHICLE WINDOW SUNSCREENS

AN ACT Relating to the application of coloring material to vehicle windows; and amending RCW 46.37.430.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 46.37.430, chapter 12, Laws of 1961 as last amended by section 157, chapter 158, Laws of 1979 and RCW 46.37.430 are each amended to read as follows:

(1) On and after January 1, 1938, no person shall sell any new motor vehicle as specified herein, nor shall any new motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glazing material of a type approved by the state commission on equipment wherever glazing material is used in doors, windows and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by ~~((paragraph))~~ subsection (4) of this section.

(2) The term "safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) The state commission on equipment shall compile and publish a list of types of glazing material by name approved by it as meeting the requirements of this section and the director of licensing shall not register after January 1, 1938, any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he shall thereafter suspend the registration of any motor vehicle so subject to this section which he finds is not so equipped until it is made to conform to the requirements of this section.

(4) No person shall sell or offer for sale, nor shall any person operate a motor vehicle registered in this state which is equipped with, any camper manufactured after May 23, 1969, unless such camper is equipped with safety glazing material of a type approved by the state commission on equipment wherever glazing materials are used in outside windows and doors.

(5) No tinting or coloring material (~~(of any kind, which)~~) that reduces light transmittance to any degree, unless it meets standards for such material adopted by the state commission on equipment, shall be applied to the surface of the safety glazing material in a motor vehicle in any of the following locations:

- (a) Windshields,
- (b) Windows to the immediate right and left of the driver including windwings or,
- (c) Rearmost windows if used for driving visibility by means of an interior rear-view mirror.

The standards adopted by the commission shall permit a greater degree of light reduction on a vehicle operated by or carrying as a passenger a person who possesses written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight for physical or medical reasons.

Nothing in this subsection shall prohibit the use of shaded or heat-absorbing safety glazing material in which the shading or heat-absorbing characteristics have been applied at the time of manufacture of the safety glazing material and which meet the standards of the state commission on equipment for such safety glazing materials.

(6) The standards used for approval of safety glazing materials by the state commission on equipment shall conform as closely as possible to the standards for safety glazing materials for motor vehicles promulgated by

the United States of America Standards Institute in effect at the time of manufacture of the safety glazing material.

Passed the Senate April 22, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 305

[Engrossed Substitute Senate Bill No. 3792]

BANKS—SUPERVISOR OF BANKING VISITATIONS—LOANS TO OFFICERS—FOREIGN BANKS—STOCK PURCHASES—DEPOSIT RECEIPTS

AN ACT Relating to banks and banking; amending RCW 30.04.060, 30.04.230, 30.04.405, 30.12.060, 30.42.100, and 30.42.115; and adding new sections to chapter 30.04 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 30.04 RCW to read as follows:

(1) Notwithstanding any other provision of this title, a bank, with the prior approval of the supervisor, may purchase shares of its own capital stock. However, no bank may purchase and hold at any time more than five percent of its outstanding shares. Shares purchased under this section shall not be held for a period greater than six months.

(2) When a bank purchases such shares, its capital accounts shall be reduced appropriately. The shares shall be held as authorized but unissued shares, but may be resold at any time within six months after acquisition for a price equal to or greater than the higher of the acquisition price or par value. Except as provided in this subsection, shares shall not be sold without the prior written approval of the supervisor.

NEW SECTION. Sec. 2. A new section is added to chapter 30.04 RCW to read as follows:

Each person making a deposit in a bank or trust company shall be given a receipt that shall show or in conjunction with the deposit slip can be used to trace the name of the bank or trust company, the name of the account, the account number, the date, and the amount deposited. If specifically requested by the depositor when making the deposit, the receipt must expressly show the name of the bank or trust company, the date, the amount deposited, plus either the name of the account or the account number or both the name of the account and the account number.

Sec. 3. Section 30.04.060, chapter 33, Laws of 1955 as last amended by section 3, chapter 157, Laws of 1983 and RCW 30.04.060 are each amended to read as follows:

The supervisor, the deputy supervisor, or a bank examiner, without previous notice, shall visit each bank and each trust company at least once

~~((in each year))~~ every eighteen months, and oftener if necessary, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation. The supervisor may make such other full or partial examinations as deemed necessary and may examine any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington and obtain reports of condition for any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington. The supervisor may visit and examine into the affairs of any nonpublicly held corporation in which the bank, trust company, or bank holding company has an investment or any publicly held corporation the capital stock of which is controlled by the bank, trust company, or bank holding company; may appraise and revalue such corporations' investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporations for such purposes. The supervisor may, in his or her discretion, accept in lieu of the examinations required in this section the examinations ~~((required under the terms of the federal reserve act for banks which are, or may become, members of a federal reserve bank or the deposits of which are insured by))~~ conducted at the direction of the federal reserve board or the Federal Deposit Insurance Corporation. Any wilful false swearing in any examination is perjury in the second degree.

Sec. 4. Section 30.04.230, chapter 33, Laws of 1955 as last amended by section 9, chapter 157, Laws of 1983 and RCW 30.04.230 are each amended to read as follows:

(1) A corporation or association organized under the laws of this state or licensed to transact business in the state, other than a bank or trust company, may acquire any or all shares of stock of any bank, trust company, or national banking association. Nothing in this section shall be construed to prohibit the merger, consolidation, or reorganization of a bank or trust company in accordance with this title.

(2) Unless the terms of this section are complied with, an out-of-state bank holding company shall not acquire more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state.

(3) As used in this section a "bank holding company" means a company that is a bank holding company as defined by the Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. ~~((194))~~ 1841 et seq.). An "out-of-state bank holding company" is a bank holding company that principally conducts its operations outside this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a holding company. A "domestic bank holding company" is a bank

holding company that principally conducts its operations within this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a bank holding company.

(4) Any such acquisition referred to under subsection (2) of this section by an out-of-state bank holding company requires the express written approval of the supervisor of banking. Approval shall not be granted unless and until the following conditions are met:

(a) An out-of-state bank holding company desiring to make an acquisition referred to under subsection (2) of this section and the bank, trust company, national banking association, or domestic bank holding company parent thereof, if any, proposed to be acquired shall file an application in writing with the supervisor of banking ~~((and pay an investigation fee of five thousand dollars to the supervisor of banking))~~. The supervisor shall by rule establish the fee schedule to be collected from the applicant in connection with the application. The fee shall not exceed the cost of processing the application. The application shall contain such information as the supervisor of banking may prescribe by rule as necessary or appropriate for the purpose of making a determination under this section. The application and supporting information and all examination reports and information obtained by the supervisor and the supervisor's staff in conducting its investigation shall be confidential and privileged and not subject to public disclosure under chapter 42.17 RCW. The application and information may be disclosed to federal bank regulatory agencies and to officials empowered to investigate criminal charges, subject to legal process, valid search warrant, or subpoena. In any civil action in which such application or information is sought to be discovered or used as evidence, any party may, upon notice to the supervisor and other parties, petition for an in camera review. The court may permit discovery and introduction of only those portions that are relevant and otherwise unobtainable by the requesting party. The application and information shall be discoverable in any judicial action challenging the approval of an acquisition by the supervisor as arbitrary and capricious or unlawful.

(b) The supervisor of banking shall find that:

(i) The bank, trust company, or national banking association that is proposed to be acquired or the domestic bank holding company controlling such bank, trust company, or national banking association is in such a liquidity or financial condition as to be in danger of closing, failing, or insolvency. In making any such determination the supervisor shall be guided by the criteria developed by the federal regulatory agencies with respect to emergency acquisitions under the provisions of 12 U.S.C. Sec. 1828(c);

(ii) There is no state bank, trust company, or national banking association doing business in the state of Washington or domestic bank holding company with sufficient resources willing to acquire the entire bank, trust

company, or national banking association on at least as favorable terms as the out-of-state bank holding company is willing to acquire it;

(iii) The applicant out-of-state bank holding company has provided all information and documents requested by the supervisor in relation to the application; and

(iv) The applicant out-of-state bank holding company has demonstrated an acceptable record of meeting the credit needs of its entire community, including low and moderate income neighborhoods, consistent with the safe and sound operation of such institution.

(c) The supervisor shall consider:

(i) The financial institution structure of this state; and

(ii) The convenience and needs of the public of this state.

(5) Nothing in this section may be construed to prohibit, limit, restrict, or subject to further regulation the ownership by a bank of the stock of a bank service corporation or a banker's bank.

Sec. 5. Section 2, chapter 246, Laws of 1977 ex. sess. and RCW 30-04.405 are each amended to read as follows:

(1) It is unlawful for any person to acquire control of a bank until thirty days after filing with the supervisor a completed application. The application shall be under oath and contain substantially all of the following information plus any additional information that the supervisor may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(a) The identity, banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure for management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) Notwithstanding any other provision of this section, a bank or domestic bank holding company as defined in RCW 30.04.230 need only notify the supervisor of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(3) When a person, other than an individual or corporation, is required to file an application under this section, the supervisor may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person, as defined in RCW 30.04.400(3), who has an interest in or controls a person filing an application under this subsection.

(4) When a corporation is required to file an application under this section, the supervisor may require that information required by subsection (1)(a), (b), and (f) of this section be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(5) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C., Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C., Sec. 78(a)), as amended, the registration statement or application may be filed with the supervisor in lieu of the requirements of this section.

(6) Any acquisition of control in violation of this section shall be ineffective and void.

(7) Any person who wilfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

Sec. 6. Section 30.12.060, chapter 33, Laws of 1955 as last amended by section 5, chapter 136, Laws of 1969 and RCW 30.12.060 are each amended to read as follows:

(1) Any bank or trust company shall be permitted to make loans to any employee of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt of any employee to any other person, to the same extent as if the employee were in no way connected with the corporation. Any bank or trust company shall be permitted to make loans to any officer of such corporation, or to purchase, discount or acquire,

as security or otherwise, the obligation or debt of any officer to any other person. PROVIDED, That the total value of the loans made and obligation acquired for any one officer shall not exceed such amount as shall be prescribed by the supervisor of banking pursuant to regulations adopted in accordance with the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended: AND PROVIDED FURTHER, That no such loan shall be made, or obligation acquired, in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, unless a resolution authorizing the same shall be adopted by a vote of a majority of the board of directors of such corporation (~~(, at a meeting of the board of directors of such corporation held within thirty days))~~ prior to the making of such loan or discount, and such vote and resolution shall be entered in the corporate minutes. In no event shall the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors. No loan in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, shall be made by any bank or trust company to any director of such corporation nor shall the note or obligation in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, of such director be discounted by any such corporation, or by any officer or employee thereof in its behalf, unless a resolution authorizing the same shall be adopted by a vote of a majority of the entire board of directors of such corporation exclusive of the vote of such interested director, (~~(at a meeting of the board of directors of such corporation held within ninety days prior to the making of such loan or discount,))~~) and such vote and resolution shall be entered in the corporate minutes. In no event may the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors.

Each bank or trust company shall at such times and in such form as may be required by the supervisor, report to the supervisor all outstanding loans to directors of such bank or trust company.

The amount of any endorsement or agreement of suretyship or guaranty of any such director to the corporation shall be construed to be a loan within the provisions of this section. Any modification of the terms of an existing obligation (excepting only such modifications as merely extend or renew the indebtedness) shall be construed to be a loan within the meaning of this section.

(2) "Unimpaired surplus," as used in this section, consists of the sum of the following amounts:

- (a) Fifty percent of the reserve for possible loan losses;
- (b) Subordinated notes and debentures;
- (c) Surplus;
- (d) Undivided profits; and

(c) Reserve for contingencies and other capital reserves, excluding accrued dividends on preferred stock.

Sec. 7. Section 10, chapter 53, Laws of 1973 1st ex. sess. and RCW 30.42.100 are each amended to read as follows:

If the supervisor approves the application, he shall notify the alien bank of his approval and shall file certified copies of its charter, certificate or other authorization to do business with the secretary of state (~~and with the recording officer of the county in which the office is to be located~~). Upon such filing, the supervisor shall issue a certificate of authority stating that the alien bank is authorized to conduct business through a branch or agency in this state at the place designated in accordance with this chapter. Each such certificate shall be conspicuously displayed at all times in the place of business specified therein.

The office of the alien bank must commence business within six months after the issuance of the supervisor's certificate: PROVIDED, That the supervisor for good cause shown may extend such period for an additional time not to exceed three months.

Sec. 8. Section 6, chapter 95, Laws of 1982 and RCW 30.42.115 are each amended to read as follows:

(1) Any branch of an alien bank that received approval of its branch application pursuant to RCW 30.42.090, or that had filed its branch application pursuant to RCW 30.42.060, on or before July 27, 1978, and any approved branch of an alien bank that has designated Washington as its home state pursuant to section 5 of the International Banking Act of 1978, shall have the same power to solicit and accept deposits as a state bank chartered pursuant to Title 30 RCW, except that acceptance of initial deposits of less than one hundred thousand dollars shall be limited to deposits of the following:

(a) Any business entity, including any corporation, partnership, association, or trust, that engages in commercial activity for profit: PROVIDED, That there shall be excluded from this category any such business entity that is organized under the laws of any state or the United States, is majority-owned by United States citizens or residents, and has total assets, including assets of majority owned subsidiaries, of less than one million five hundred thousand dollars as of the date of the initial deposit;

(b) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(c) Any international organization which is composed of two or more nations;

(d) Any draft, check, or similar instrument for the transmission of funds issued by the branch;

(e) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit;

(f) Any depositor who established a deposit account on or before July 1, 1982, and who has continuously maintained the deposit account since that date: PROVIDED, That this subparagraph (f) of this subsection shall be effective only until July 1, 1985;

(g) Any other person: PROVIDED, That the amount of deposits under this subparagraph (g) of this subsection may not exceed four percent of the average of the branch's deposits for the last thirty days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies, or wholly owned subsidiaries of the alien bank.

(2) As used in subsection (1) of this section, "initial deposit" means the first deposit transaction between a depositor and the branch. Different deposit accounts that are held by a depositor in the same right and capacity may be added together for purposes of determining the dollar amount of that depositor's initial deposit.

(3) Approved branches of alien banks, other than those described in subsection (1) of this section, may solicit and accept deposits only from foreign governments and their agencies and instrumentalities, persons, or entities conducting business principally at their offices or establishments abroad, and such other deposits that:

(a) Are to be transmitted abroad;

(b) Consist of collateral or funds to be used for payment of obligations to the branch;

(c) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(d) Consist of the proceeds of extensions of credit by the branch; or

(e) Represent compensation to the branch for extensions of credit or services to the customer.

(4) A branch may accept deposits, subject to the limitations set forth in subsections (1) and (3) of this section, only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state which are members of the Federal Reserve System may accept such deposits. Any branch that is not subject to reserve requirements under regulations of the Federal Reserve Board shall maintain deposit reserves in this state, pursuant to rules adopted by the supervisor, to the same extent they must be maintained by banks organized under the laws of this state which are members of the Federal Reserve System.

Passed the Senate April 23, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 306

[Senate Bill No. 3326]

LIQUOR LICENSES—CLASS H—CLASS I

AN ACT Relating to liquor licenses; and amending RCW 66.24.490.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 55, Laws of 1967 as last amended by section 19, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.24.490 are each amended to read as follows:

(1) There shall be a retailer's license to be designated as a class I license; this shall be a special occasion license to be issued to the holder of a class H license to extend ~~((his))~~ the privilege of selling and serving spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, to members and guests of a society or organization on special occasions at a specified date and place when such special occasions of such groups are held on premises other than the class H licensed premises and for consumption on the premises of such outside location. The holder of such special occasion license shall be allowed to remove from ~~((his))~~ the liquor stocks at ~~((his))~~ the licensed class H premises, liquor for sale and service at such special occasion locations ~~((: PROVIDED, That the Washington state liquor control board may issue banquet permits when such groups prefer to provide their own liquor under such a permit rather than avail themselves of sale and service of liquor by the holder of a class I license))~~. Such special class I license shall be issued for a specified date and place and upon payment of a fee of twenty-five dollars per day or, upon proper application to the liquor control board, an annual class I license may be issued to the holder of a class H license upon payment of a fee of three hundred fifty dollars.

(2) The holder of an annual class I license shall obtain prior board approval for each event at which the class I license will be utilized. When applying for such board approval, the class I licensee shall provide to the board all necessary or requested information concerning the society or organization which will be holding the function at which the class I license will be utilized.

(3) Upon receipt of a request for utilization of a class I license at a particular time and place, the board shall give notification of the pending request to the chief executive officer of the incorporated city or town, if the function is to be held within an incorporated city or town, or to the county legislative authority if the function is to be held outside the boundaries of incorporated cities or towns. Each such city, town, or county, through the official or employee selected by it, shall have ten days from the date of receipt of said notification in which to file written objections to the utilization

of the class I license at the particular time and place specified in the request.

(4) If attendance at the function, for which class I license utilization approval is requested, will be open to the general public, board approval may only be given where the society or organization sponsoring the function is within the definition of "society or organization" in RCW 66.24.375. If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, board approval may be given even though the sponsoring society or organization is not within the definition of "society or organization" in RCW 66.24.375.

(5) Where the applicant for either a daily or annual class I license is a class H club licensee, the board shall not issue the class I license, or approve the use of a previously issued class I license, unless the following requirements are met:

(a) The gross food sales of the class H club exceed its gross liquor sales; and

(b) The event for which the class I license will be used is hosted by a member of the class H licensed club.

Passed the Senate February 15, 1985.

Passed the House April 17, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 307

[Engrossed Senate Bill No. 4146]

MT. ST. HELENS—SEDIMENT RETENTION SITES—DREDGING—PERMIT EXEMPTIONS

AN ACT Relating to the effects of the eruption of Mount St. Helens; amending RCW 43.01.200, 43.01.210, 43.21A.500, 43.21C.500, 75.20.110, 75.20.300, 79.90.160, 89.16.500, and 90.58.500; repealing RCW 44.04.500; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 7, Laws of 1982 as amended by section 1, chapter 1, Laws of 1983 1st ex. sess. and RCW 43.01.200 are each amended to read as follows:

(1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for

dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, 43.21A.500, 43.21C.500, (~~44.04.500~~;) 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section.

Sec. 2. Section 2, chapter 7, Laws of 1982 as amended by section 2, chapter 1, Laws of 1983 1st ex. sess. and RCW 43.01.210 are each amended to read as follows:

State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, (~~or for~~) open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the Army Corps of Engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations.

Sec. 3. Section 7, chapter 7, Laws of 1982 as amended by section 6, chapter 1, Laws of 1983 1st ex. sess. and RCW 43.21A.500 are each amended to read as follows:

Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210, other than the sediment retention structure to be built on the North Fork Toutle river by

the United States army corps of engineers, may be exempted by the applicable county legislative authority from the requirements related to water and flood control under the department of ecology, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources ((~~regional~~)) district supervisor of the southwest region of the department of ecology.

This section shall expire on June 30, ((1988)) 1990.

Sec. 4. Section 5, chapter 7, Laws of 1982 as amended by section 4, chapter 1, Laws of 1983 1st ex. sess. and RCW 43.21C.500 are each amended to read as follows:

Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210, other than the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers, may be exempted by the applicable county legislative authority from the requirements of the State Environmental Policy Act of 1971, chapter 43.21C RCW, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources ((~~regional~~)) district supervisor of the southwest region of the department of ecology. The county shall comply with all substantive objectives of this chapter and shall consult with the department of ecology in the planning process.

This section shall expire on June 30, ((1988)) 1990.

Sec. 5. Section 1, chapter 4, Laws of 1961 as amended by section 76, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.20.110 are each amended to read as follows:

(1) Except for the north fork of the Lewis river and the White Salmon river, all streams and rivers tributary to the Columbia river downstream from McNary dam are established as an anadromous fish sanctuary. This sanctuary is created to preserve and develop the food fish and game fish resources in these streams and rivers and to protect them against undue industrial encroachment.

(2) Within the sanctuary area:

(a) It is unlawful to construct a dam greater than twenty-five feet high within the migration range of anadromous fish as jointly determined by the director of fisheries and the director of game.

(b) Except by concurrent order of the director of fisheries and director of game, it is unlawful to divert water from rivers and streams in quantities that will reduce the respective stream flow below the annual average low flow, based upon data published in United States geological survey reports.

(3) The director of fisheries and the director of game may acquire and abate a dam or other obstruction, or acquire any water right vested on a sanctuary stream or river, which is in conflict with the provisions of subsection (2) of this section.

(4) Subsection (2) (a) of this section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

Sec. 6. Section 8, chapter 7, Laws of 1982 as last amended by section 3, chapter 80, Laws of 1984 and RCW 75.20.300 are each amended to read as follows:

(1) The legislature intends to expedite flood-control, acquisition of sites for sediment retention, and dredging operations in those rivers affected by the May 1980 eruption of Mt. St. Helens, while continuing to protect the fish resources of these rivers.

(2) The director of fisheries and director of game shall process hydraulic project applications submitted under RCW 75.20.100 within fifteen working days of receipt of the application. This requirement is only applicable to flood control and dredging projects located ~~((in the Toutle river;))~~ in the Cowlitz river from ~~((River))~~ mile 22 to the confluence with the Columbia, ((and the volcano-affected tributaries of the Cowlitz)) and in the Toutle river from the mouth to the North Fork Toutle sediment dam site at North Fork mile 12, and volcano-affected areas of the Columbia river.

(3) For the purposes of this section, the emergency provisions of RCW 75.20.100 may be initiated by the county legislative authority if the project is necessary to protect human life or property from flood hazards, including:

(a) Flood fight measures necessary to provide protection during a flood event; or

(b) Measures necessary to reduce or eliminate a potential flood threat when other alternative measures are not available or cannot be completed prior to the expected flood threat season; or

(c) Measures which must be initiated and completed within an immediate period of time and for which processing of the request through normal methods would cause a delay to the project and such delay would significantly increase the potential for damages from a flood event.

(4) This section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

(5) This section expires on June 30, ((+1988)) 1990.

Sec. 7. Section 22, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.90.160 are each amended to read as follows:

The legislature finds and declares that, due to the extraordinary volume of material washed down onto state-owned beds and shorelands in the Toutle river, Cowceman river, and portions of the Cowlitz river, the dredge

spoils placed upon adjacent privately owned property in such areas, if further disposed, will be of nominal value to the state and that it is in the best interests of the state to allow further disposal without charge.

All dredge spoil or materials removed from the state-owned beds and shores of the Toutle river, Coweeman river and that portion of the Cowlitz river from two miles above the confluence of the Toutle river to its mouth deposited on adjacent private lands during the years 1980 through December 31, ((+1985)) 1990, as a result of dredging of these rivers for navigation and flood control purposes may be sold, transferred, or otherwise disposed of by owners of such lands without the necessity of any charge by the department of natural resources and free and clear of any interest of the department of natural resources of the state of Washington.

Sec. 8. Section 6, chapter 7, Laws of 1982 as amended by section 5, chapter 1, Laws of 1983 1st ex. sess. and RCW 89.16.500 are each amended to read as follows:

Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210, other than the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers, may be exempted by the applicable county legislative authority from the requirements related to diking and drainage under the department of ecology, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources ((regional)) district supervisor of the southwest region of the department of ecology.

This section shall expire on June 30, ((+1988)) 1990.

Sec. 9. Section 4, chapter 7, Laws of 1982 as amended by section 3, chapter 1, Laws of 1983 1st ex. sess. and RCW 90.58.500 are each amended to read as follows:

Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210 may be exempted by the applicable county legislative authority from the requirements of the Shoreline Management Act of 1971, chapter 90.58 RCW, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources ((regional)) district supervisor of the southwest region of the department of ecology. The county shall comply with all substantive objectives of this chapter and shall consult with the department of ecology in the planning process.

The sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers is exempt from the substantial development permit requirement under RCW 90.58.030(3)(c).

This section shall expire on June 30, (~~1988~~) 1990.

NEW SECTION. Sec. 10. Section 9, chapter 7, Laws of 1982 and RCW 44.04.500 are each repealed.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 20, 1985.

Passed the House April 28, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 308

[Substitute Senate Bill No. 3438]

ENERGY EMERGENCIES—GOVERNOR'S POWER TO DECLARE

AN ACT Relating to energy supply emergencies; amending RCW 43.21G.040; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 18, chapter 108, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 281, Laws of 1981 and RCW 43.21G.040 are each amended to read as follows:

(f) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other

relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

The governor shall review the status of such plans annually with the house of representatives and senate standing committees on energy and utilities.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

In the event any such initial extension is implemented, the condition shall terminate one hundred and fifty consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate sixty consecutive days after the implementation of such extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

In the event any such initial extension is implemented, the condition shall terminate ninety consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate forty-five consecutive days after the implementation of such extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition

of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.04 RCW, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the

state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. (~~The emergency powers granted to the governor in this chapter shall expire on June 30, 1985.~~)

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 29, 1985.

Passed the Senate April 23, 1985.

Passed the House April 5, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 309

[Engrossed Substitute Senate Bill No. 3027]

REFUELING SERVICES FOR DISABLED DRIVERS

AN ACT Relating to disabled persons; adding a new section to chapter 70.84 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.84 RCW to read as follows:

(1) Every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility, shall provide, upon request, refueling service to disabled drivers, unaccompanied by passengers capable of safely providing refueling service, of vehicles which display a disabled person's license plate, decal, or special card issued by the department of licensing. The price charged for the motor vehicle fuel in such a case shall be no greater than that which the facility otherwise would charge the public generally to purchase motor vehicle fuel without refueling service. This section does not require a facility to provide disabled drivers with services, including but not limited to checking oil or cleaning windshields, other than refueling services.

(2) This section does not apply to:

(a) Exclusive self-service gas stations which have remotely controlled gas pumps and which never provide pump island service; and

(b) Convenience stores which sell gasoline, which have remotely controlled gas pumps and which never provide pump island service.

(3) Any person who, as a responsible managing individual setting service policy of a station or facility or as an employee acting independently

against set service policy, acts in violation of this section is guilty of a misdemeanor. This subsection shall be enforced by the prosecuting attorney.

(4) The human rights commission shall, upon the filing of a verified written complaint by any person, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. The complaint shall be in the form prescribed by the commission. The commission may, upon its own motion, issue complaints and conduct investigations of alleged violations of this section.

RCW 49.60.240 through 49.60.280 shall apply to complaints under this section.

(5) In addition to those matters referred pursuant to subsection (3) of this section, the prosecuting attorney may investigate and prosecute alleged violations of this section.

(6) Any person who intentionally displays a license plate, decal, or special card which is invalid, or which was not lawfully issued to that person, for the purpose of obtaining refueling service under subsection (1) of this section shall be subject to a civil fine of one hundred dollars for each such violation.

(7) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility.

(8) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person who is issued a disabled person's license plate, decal, or special card.

(9) For the purposes of this section, "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

(10) Nothing in this section limits or restricts the rights or remedies provided under chapter 49.60 RCW.

Passed the Senate April 20, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 310

[Senate Bill No. 3236]

INTERSTATE BANKING

AN ACT Relating to banks and bank holding companies; amending RCW 30.04.230; adding a new section to chapter 30.04 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 30.04 RCW to read as follows:

(1) In addition to an acquisition pursuant to RCW 30.04.230, an out-of-state bank holding company may acquire more than five percent of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association, the principal operations of which are conducted within this state, if the following terms or conditions are fulfilled:

(a) The bank, trust company, or national banking association, the voting stock of which is to be acquired, shall have been conducting business for a period of not less than three years;

(b) The laws of the state in which the out-of-state bank holding company principally conducts its operations permit a domestic bank holding company to acquire more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association, the principal operations of which are conducted within that state, and permit the operation of the acquired bank, trust company, or national banking association within that state on terms and conditions no less favorable than other banks, trust companies, or national banking associations doing a banking business within that state;

(c) The supervisor of banking, upon the request of any person, shall adopt a rule making a determination whether the law, of a particular state or states meets the qualifications of (b) of this subsection.

(2) As used in this section, the terms "bank holding company," "domestic bank holding company," and "out-of-state bank holding company" shall have the meanings provided in RCW 30.04.230.

Sec. 2. Section 30.04.230, chapter 33, Laws of 1955 as last amended by section 9, chapter 157, Laws of 1983 and RCW 30.04.230 are each amended to read as follows:

(1) A corporation or association organized under the laws of this state or licensed to transact business in the state, other than a bank or trust company, may acquire any or all shares of stock of any bank, trust company, or national banking association. Nothing in this section shall be construed to prohibit the merger, consolidation, or reorganization of a bank or trust company in accordance with this title.

(2) Unless the terms of this section or section 1 of this 1985 act are complied with, an out-of-state bank holding company shall not acquire more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state.

(3) As used in this section a "bank holding company" means a company that is a bank holding company as defined by the Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. ((1941)) 1841 et seq.). An "out-of-state bank holding company" is a bank holding company that principally conducts its operations outside this state, as measured by total

deposits held or controlled by its bank subsidiaries on the date on which it became a holding company. A "domestic bank holding company" is a bank holding company that principally conducts its operations within this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a bank holding company.

(4) Any such acquisition referred to under subsection (2) of this section by an out-of-state bank holding company requires the express written approval of the supervisor of banking. Approval shall not be granted unless and until the following conditions are met:

(a) An out-of-state bank holding company desiring to make an acquisition referred to under subsection (2) of this section and the bank, trust company, national banking association, or domestic bank holding company parent thereof, if any, proposed to be acquired shall file an application in writing with the supervisor of banking and pay an investigation fee of five thousand dollars to the supervisor of banking. The application shall contain such information as the supervisor of banking may prescribe by rule as necessary or appropriate for the purpose of making a determination under this section. The application and supporting information and all examination reports and information obtained by the supervisor and the supervisor's staff in conducting its investigation shall be confidential and privileged and not subject to public disclosure under chapter 42.17 RCW. The application and information may be disclosed to federal bank regulatory agencies and to officials empowered to investigate criminal charges, subject to legal process, valid search warrant, or subpoena. In any civil action in which such application or information is sought to be discovered or used as evidence, any party may, upon notice to the supervisor and other parties, petition for an in camera review. The court may permit discovery and introduction of only those portions that are relevant and otherwise unobtainable by the requesting party. The application and information shall be discoverable in any judicial action challenging the approval of an acquisition by the supervisor as arbitrary and capricious or unlawful.

(b) The supervisor of banking shall find that:

(i) The bank, trust company, or national banking association that is proposed to be acquired or the domestic bank holding company controlling such bank, trust company, or national banking association is in such a liquidity or financial condition as to be in danger of closing, failing, or insolvency. In making any such determination the supervisor shall be guided by the criteria developed by the federal regulatory agencies with respect to emergency acquisitions under the provisions of 12 U.S.C. Sec. 1828(c);

(ii) There is no state bank, trust company, or national banking association doing business in the state of Washington or domestic bank holding company with sufficient resources willing to acquire the entire bank, trust company, or national banking association on at least as favorable terms as the out-of-state bank holding company is willing to acquire it;

(iii) The applicant out-of-state bank holding company has provided all information and documents requested by the supervisor in relation to the application; and

(iv) The applicant out-of-state bank holding company has demonstrated an acceptable record of meeting the credit needs of its entire community, including low and moderate income neighborhoods, consistent with the safe and sound operation of such institution.

(c) The supervisor shall consider:

(i) The financial institution structure of this state; and

(ii) The convenience and needs of the public of this state.

(5) Nothing in this section may be construed to prohibit, limit, restrict, or subject to further regulation the ownership by a bank of the stock of a bank service corporation or a banker's bank.

NEW SECTION. Sec. 3. Nothing in this act shall be deemed to expand or limit the power of a bank holding company or bank to engage in the insurance business.

NEW SECTION. Sec. 4. This act shall take effect July 1, 1987.

Passed the Senate February 14, 1985.

Passed the House April 19, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 311

[Substitute Senate Bill No. 3145]

FOREST RESERVE FUND DISTRIBUTION TO COUNTIES FOR PUBLIC ROADS OR PUBLIC SCHOOLS

AN ACT Relating to distribution of forest reserve funds for schools or county roads; and amending RCW 28A.02.300 and 28A.02.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 126, Laws of 1982 and RCW 28A.02.300 are each amended to read as follows:

Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads, and fifty percent shall be spent by the counties on public schools as provided in RCW 28A.02.310(2), or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. Where the reserve is situated in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties. The county legislative authority shall expend ~~((said money))~~ the fifty percent received by the county for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law.

Sec. 2. Section 2, chapter 126, Laws of 1982 and RCW 28A.02.310 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving fund. The state treasurer, who shall be custodian of the revolving fund, shall deposit into the revolving fund ~~((fifty percent of))~~ the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements ~~((from the revolving fund))~~ by the counties of the remaining fifty percent of the money shall be ~~((on authorization of))~~ as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section. ~~((No appropriation is required to permit disbursement of moneys from the revolving fund:))~~

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion ~~((all))~~ moneys ~~((in the revolving fund))~~ distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October ~~((apportionment))~~ enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.48.010, as now existing or hereafter amended, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended.

Passed the Senate February 13, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 312

[Substitute Senate Bill No. 3442]

FIRE SERVICE TRAINING

AN ACT Relating to fire service training; and adding new sections to chapter 28C.04 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28C.04 RCW to read as follows:

The commission for vocational education may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training.

NEW SECTION. Sec. 2. A new section is added to chapter 28C.04 RCW to read as follows:

The fire service training account is hereby established in the state treasury. The commission for vocational education shall deposit in the account all fees received by the commission for fire service training. Moneys in the account may be appropriated only for fire service training.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 313

[Senate Bill No. 3625]

FIRE PROTECTION DISTRICTS—ANNEXATION OF CONTIGUOUS AREAS

AN ACT Relating to fire protection districts; and amending RCW 52 04.061.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 179, Laws of 1979 ex. sess. and RCW 52.04.061 are each amended to read as follows:

A city or town lying contiguous to a fire protection district may be annexed to such district if at the time of the initiation of annexation the population of the city or town is (~~(+0,000)~~) 100,000 or less. The legislative

authority of the city or town may initiate annexation by the adoption of an ordinance stating an intent to join the fire protection district and finding that the public interest will be served thereby. If the board of fire commissioners of the fire protection district shall concur in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town and the district are situated.

Passed the Senate March 11, 1985.

Passed the House April 19, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 314

[Senate Bill No. 3426]

INDUSTRIAL INSURANCE APPEALS

AN ACT Relating to industrial insurance; and amending RCW 51.52.104.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 6, chapter 148, Laws of 1963 as last amended by section 5, chapter 109, Laws of 1982 and RCW 51.52.104 are each amended to read as follows:

After all evidence has been presented at hearings conducted by an industrial appeals judge, who shall be an active member of the Washington state bar association, the industrial appeals judge shall enter a proposed or recommended decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The industrial appeals judge shall file the signed original of the proposed decision and order (~~(signed by him,)~~) with the board, and copies thereof shall be mailed by the board to each party to the appeal and to ((his)) each party's attorney or representative of record. Within twenty days, or such further ((period)) time as the board may allow on written application of a party, filed within said twenty days from the date of communication of the proposed decision and order to the parties or their attorneys or representatives of record, any party may file with the board a written petition for review of the same. ((For purposes of determining whether)) Filing of a petition for review ((has been timely filed, the date such petition for review is received at)) is perfected by mailing or personally delivering the petition to the board's offices in Olympia ((shall be the date upon which filing is perfected)). Such petition for review shall set forth in detail the grounds therefor and the party or parties filing the same shall be deemed to have waived all objections or irregularities not specifically set forth therein.

In the event no petition for review is filed as provided herein by any party, the proposed decision and order of the industrial appeals judge shall

be adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts. If an order adopting the proposed decision and order is not formally signed by the board on the day following the (~~expiration of the time period for filing a~~) date the petition for review of the proposed decision and order is due, said proposed decision and order shall be deemed adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts.

Passed the Senate April 28, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 315

[Substitute Senate Bill No. 4189]

INDUSTRIAL INSURANCE TAX ASSESSMENT ACTIONS—APPELLATE JURISDICTION—STATUTE OF LIMITATIONS

AN ACT Relating to appellate jurisdiction in industrial insurance tax assessment actions; amending RCW 51.16.060, 51.16.150, 51.16.155, 51.16.160, 51.16.190, 51.48.120, 51.48.140, and 51.52.050; adding a new section to chapter 51.48 RCW; and repealing RCW 51.48.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 260, Laws of 1981 and RCW 51.16.060 are each amended to read as follows:

Every employer not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which workers were employed by it during the preceding calendar quarter, the total amount paid to such workers during such preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay its premium thereon to the appropriate fund. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter. The sufficiency of such statement shall be subject to the approval of the director: PROVIDED, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: PROVIDED FURTHER, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: PROVIDED FURTHER, That the department may promulgate rules and

regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll: AND PROVIDED FURTHER, That a temporary help company which provides workers on a temporary basis to its customers shall be considered the employer for purposes of reporting and paying premiums and assessments under this title according to the appropriate rate classifications as determined by the department: PROVIDED, That the employer shall be liable for paying premiums and assessments, should the temporary help company fail to pay the premiums and assessments under this title.

Sec. 2. Section 51.16.150, chapter 23, Laws of 1961 as amended by section 15, chapter 43, Laws of 1972 ex. sess. and RCW 51.16.150 are each amended to read as follows:

If any employer shall default in any payment to any fund, the sum due ((shall)) may be collected by action at law in the name of the state as plaintiff, and such right of action shall be in addition to any other right of action or remedy. If such default occurs after demand, there shall also be collected a penalty equal to twenty-five percent of the amount of the defaulted payment or payments, and the director may require from the defaulting employer a bond to the state for the benefit of any fund, with surety to the director's satisfaction, in the penalty of double the amount of the estimated payments which will be required from such employer into the said funds for and during the ensuing one year, together with any penalty or penalties incurred. In case of refusal or failure after written demand personally served to furnish such bond, the state shall be entitled to an injunction restraining the delinquent from prosecuting an occupation or work until such bond is furnished, and until all delinquent premiums, penalties, interest and costs are paid, conditioned for the prompt and punctual making of all payments into said funds during such periods, and any sale, transfer, or lease attempted to be made by such delinquent during the period of any of the defaults herein mentioned, of his works, plant, or lease thereto, shall be invalid until all past delinquencies are made good, and such bond furnished.

Sec. 3. Section 87, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.155 are each amended to read as follows:

In every case where an employer insured with the state fails or refuses to file any report of payroll required by the department and fails or refuses to pay the premiums due on such unreported payroll, the department shall have authority to estimate such payroll and the premiums due thereon and collect premiums on the basis of such estimate.

If the report required and the premiums due thereon are not made within ten days from the mailing of such demand by the department, which shall include the amount of premiums estimated by the department, the employer shall be in default as provided by this title and the department may have and recover judgment, warrant, or file liens for such estimated premium or the actual premium, whichever is greater.

Sec. 4. Section 51.16.160, chapter 23, Laws of 1961 as amended by section 78, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.160 are each amended to read as follows:

~~((All actions for the recovery of delinquent premiums, assessments, contributions, and penalties therefor due any of the funds under this title shall be brought in the superior court and))~~ In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, the claim of the state for the payments due shall be a lien prior to all other liens or claims and on a parity with prior tax liens and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and all administrators, receivers, or assignees for the benefit of creditors shall notify the department of such administration, receivership, or assignment within thirty days from date of their appointment and qualification. In any action or proceeding brought for the recovery of payments due upon the payroll of an employer, the certificate of the department that an audit has been made of the payroll of such employer pursuant to the direction of the department and the amount of such payroll for the period stated in the certificate shall be prima facie evidence of such fact.

Sec. 5. Section 27, chapter 323, Laws of 1977 ex. sess. and RCW 51.16.190 are each amended to read as follows:

(1) "Action" means, but is not limited to, a notice of assessment pursuant to RCW 51.48.120, an action at law pursuant to RCW 51.16.150, or any other administrative or civil process authorized by this title for the determination of liability for premiums, assessments, penalties, contributions, or other sums, or the collection of premiums, assessments, penalties, contributions, or other sums.

(2) Any action, other than in cases of fraud, to collect any delinquent premium, assessment, contribution, penalty, or other sum due to the department from any employer subject to this title shall be brought within three years of the date any such sum became due.

~~((2) Any claim by an employer for adjustment, recomputation, or alteration of any premium, assessment, contribution, penalty, or other sum thereto collected or claimed by the department shall be deemed waived if not made in writing to the supervisor of industrial insurance within three years of the date any such sum became due.))~~

(3) Any claim for refund or adjustment by an employer of any premium, assessment, contribution, penalty, or other sum collected by the department shall be made in writing to the department within three years of the date the sum became due.

Sec. 6. Section 32, chapter 43, Laws of 1972 ex. sess. and RCW 51.48.120 are each amended to read as follows:

If any employer should default in any payment due to the state fund the director or his designee may issue a notice of assessment certifying the amount due, which notice shall be served upon the employer by mailing such notice to the employer by registered mail to his last known address, accompanied by an affidavit of service by mailing, or served in the manner prescribed for the service of a summons in a civil action. Such notice shall contain the information that ~~((a petition for review must be filed with the superior court within thirty days of the date of service of the notice of assessment))~~ an appeal must be filed with the board of industrial insurance appeals and the director by mail or personally within thirty days of the date of service of the notice of assessment in order to appeal the assessment unless a written request for reconsideration is filed with the department of labor and industries.

NEW SECTION. Sec. 7. A new section is added to chapter 51.48 RCW to read as follows:

A notice of assessment becomes final thirty days from the date the notice of assessment was served upon the employer unless: (1) A written request for reconsideration is filed with the department of labor and industries, or (2) an appeal is filed with the board of industrial insurance appeals and sent to the director of labor and industries by mail or delivered in person. The appeal shall not be denied solely on the basis that it was not filed with both the board and the director if it was filed with either the board or the director. The appeal shall set forth with particularity the reason for the employer's appeal and the amounts, if any, that the employer admits are due. The burden of proof rests upon the employer to prove that the taxes and penalties assessed upon the employer in the notice of assessment are incorrect. The department shall promptly transmit its original record, or a legible copy thereof, produced by mechanical, photographic, or electronic means, in such matter to the board. RCW 51.52.080 through 51.52.106 govern appeals under this section. Further appeals taken from a final decision of the board under this section are governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.04.130 and 34.04.140, and the department has the same right of review from the board's decisions as do employers.

Sec. 8. Section 34, chapter 43, Laws of 1972 ex. sess. and RCW 51.48.140 are each amended to read as follows:

~~((If a petition for review is not filed with the clerk of the superior court and served upon the director within thirty days from the date of service of the notice of assessment, as indicated in the affidavit of service by mailing of the department, or in the event of a final decree of any court in favor of the department in a petition for review, which is not appealed within the time allowed by law, the amount of the notice of assessment))~~ If a notice of appeal is not served on the director and the board of industrial insurance appeals pursuant to RCW 51.48.030 within thirty days from the date of service of the notice of assessment, or if a final decision and order of the board of industrial insurance appeals in favor of the department is not appealed to superior court in the manner specified in RCW 34.04.130, or if a final decision of any court in favor of the department is not appealed within the time allowed by law, then the amount of the unappealed assessment, or such amount of the assessment as is found due by the final decision and order of the board of industrial insurance appeals or final decision of the court shall be deemed final ((and established)) and the director or ((his)) the director's designee may file with the clerk of any county within the state a warrant in the amount of the notice of assessment. The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such employer mentioned in the warrant, the amount of the taxes and penalties due thereon, and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. The sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the state in a manner provided by law in case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the employer within three days of filing with the clerk.

Sec. 9. Section 51.52.050, chapter 23, Laws of 1961 as last amended by section 4, chapter 109, Laws of 1982 and RCW 51.52.050 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award,

shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

~~((Nothing in this section shall be construed to permit an appeal to the board from a notice of assessment issued pursuant to RCW 51.48.120.))~~

NEW SECTION. Sec. 10. Section 33, chapter 43, Laws of 1972 ex. sess., section 3, chapter 109, Laws of 1982 and RCW 51.48.130 are each repealed.

Passed the Senate April 22, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 316

[Senate Bill No. 3812]

WATER POLLUTION CONTROL PENALTIES—REVISIONS

AN ACT Relating to water pollution control; amending RCW 90.48.144, 90.48.120, 90.48.340, 90.48.315, 90.48.142, and 90.48.350; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. By January 1, 1986, the department of ecology shall report to the legislature all enforcement actions initiated from 1983 through November, 1985 regarding the protection of Puget Sound water quality. The report shall include the number and type of complaints received, the number of inspections conducted, the number of violations cited, the number of variances granted, the amount of penalties collected, the number of times maximum fines were collected, the number of penalties that were rescinded, and the number of criminal actions that were taken. The department of ecology shall also hold public hearings in December, 1985 in accordance with the administrative procedure act, chapter 34.04 RCW, regarding the adequacy of current enforcement activities. A report

summarizing the testimony presented shall also be prepared for the legislature by February 15, 1986.

Sec. 2. Section 14, chapter 139, Laws of 1967 ex. sess. as last amended by section 9, chapter 155, Laws of 1973 and RCW 90.48.144 are each amended to read as follows:

Every person who:

(1) Violates the terms or conditions of a waste discharge permit issued pursuant to RCW 90.48.180 or this amendatory act, or

(2) Conducts a commercial or industrial operation or other point source discharge operation without a waste discharge permit as required by RCW 90.48.160 or this amendatory act, or

(3) Violates the provisions of RCW 90.48.080, or other sections of this chapter or regulations or orders adopted or issued pursuant thereto, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ~~((five))~~ ten thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health and/or the environment in addition to other relevant factors.

The penalty herein provided for shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the director of the department or his authorized delegate describing such violation with reasonable particularity. The director or his authorized delegate may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed in the best interest to carry out the purposes of this chapter, remit or mitigate any penalty provided for in this section upon such terms as he in his discretion shall deem proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he may deem proper. The director shall remit or mitigate penalties only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty. Any person incurring any penalty hereunder may appeal the same to the hearings board as provided for in chapter 43.21B RCW. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the director or his authorized delegate setting forth the disposition of the application. Any penalty imposed hereunder

shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

Sec. 3. Section 18, chapter 216, Laws of 1945 as last amended by section 2, chapter 155, Laws of 1973 and RCW 90.48.120 are each amended to read as follows:

(1) Whenever, in the opinion of the department, any person shall violate or (~~is about~~) creates a substantial potential to violate the provisions of this chapter, or fails to control the polluting content of waste discharged or to be discharged into any waters of the state, the department shall notify such person of its determination by registered mail. Such determination shall not constitute an order or directive under RCW 90.48.135. Within thirty days from the receipt of notice of such determination, such person shall file with the department a full report stating what steps have been and are being taken to control such waste or pollution or to otherwise comply with the determination of the department. Whereupon the department shall issue such order or directive as it deems appropriate under the circumstances, and shall notify such person thereof by registered mail.

(2) Whenever the department deems immediate action is necessary to accomplish the purposes of chapter 90.48 RCW, it may issue such order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (1) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed.

Sec. 4. Section 5, chapter 133, Laws of 1969 ex. sess. as amended by section 10, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.340 are each amended to read as follows:

The director shall investigate each activity or project conducted under RCW 90.48.330 to determine, if possible, the circumstances surrounding the entry of oil into waters of the state and the person or persons allowing

said entry or responsible for the act or acts which result in said entry. Whenever it appears to the director, after investigation, that a specific person or persons are responsible for the necessary expenses incurred by the state pertaining to a project or activity as specified in RCW 90.48.335, the director shall notify said person or persons by appropriate order: PROVIDED, That no order may be issued pertaining to a project or activity which was completed more than five years prior to the date of the proposed issuance of the order. Said order shall state the findings of the director, the amount of necessary expenses incurred by the commission in conducting the project or activity, and a notice that said amount is due and payable immediately upon receipt of said order. The commission may, upon application from the recipient of an order received within thirty days from the receipt of the order, reduce or set aside in its entirety the amount due and payable, when it appears from the application, and from any further investigation the commission may desire to undertake, that a reduction or setting aside is just and fair under all the circumstances. If the amount specified in the order issued by the director notifying said person or persons is not paid within thirty days after receipt of notice imposing the same, or if an application has been made within thirty days as herein provided and the amount provided in the order issued by the commission subsequent to such application is not paid within fifteen days after receipt thereof, the attorney general, upon request of the director, shall bring an action on behalf of the state in the superior court of Thurston county or any county in which the person to which the order is directed does business to recover the amount specified in the final order of the director or the commission, as appropriate. No order issued under this section shall be construed as an order within the meaning of RCW 90.48.135. In any action to recover necessary expenses as herein provided said person shall be relieved from liability for necessary expenses if he can prove that the oil to which the necessary expenses relate entered the waters of the state by causes set forth in RCW 90.48.320(3). ((For purposes of this section "necessary expenses" shall not include expenses relating to investigation or the performance of surveillance.))

Sec. 5. Section 10, chapter 133, Laws of 1969 ex. sess. as last amended by section 1, chapter 180, Laws of 1971 ex. sess. and RCW 90.48.315 are each amended to read as follows:

For purposes of RCW 90.48.315 through 90.48.365 and RCW 78.52-.020, 78.52.125, 82.36.330, 90.48.315, 90.48.370 through 90.48.410, 90.48-.903, 90.48.906 and 90.48.907 the following definitions shall apply unless the context indicates otherwise:

- (1) "Board" shall mean the pollution control hearings board.
- (2) "Department" shall mean the department of ecology.
- (3) "Director" shall mean the director of the department of ecology.
- (4) "Discharge" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(5) "Fund" shall mean the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(6) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(7) "Necessary expenses" means the expenses incurred by the department for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; and (c) conducting actions necessary to clean up the discharge.

(8) "Oil" or "oils" shall mean oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse, or any other petroleum related product.

~~((+))~~ (9) "Person" shall mean any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever and any owner, operator, master, officer, or employee of a ship.

~~((+))~~ (10) "Ship" shall mean any boat, ship, vessel, barge, or other floating craft of any kind.

~~((+))~~ (11) "Waters of the state" shall include lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Sec. 6. Section 13, chapter 139, Laws of 1967 ex. sess. as amended by section 12, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.142 are each amended to read as follows:

Any person who violates any of the provisions of this chapter, or fails to perform any duty imposed by this chapter, or violates an order or other determination of the commission or the director made pursuant to the provisions of this chapter, including the conditions of a waste discharge permit issued pursuant to RCW 90.48.160, and in the course thereof causes the death of, or injury to, fish, animals, vegetation or other resources of the state, or otherwise causes a reduction in the quality of the state's waters below the standards set by the commission or, if no standards have been set, causes significant degradation of water quality, thereby damaging the same, shall be liable to pay the state damages in an amount equal to the sum of money necessary to restock such waters, replenish such resources, and otherwise restore the stream, lake or other water source to its condition prior to the injury, as such condition is determined by the commission. Such damages shall be recoverable in an action brought by the attorney general on behalf of the people of the state of Washington in the superior court of the county in which such damages occurred: PROVIDED, That if damages occurred in more than one county the attorney general may bring action in

any of the counties where the damages occurred. Any money so recovered by the attorney general shall be transferred to either the state game fund or the department of fisheries to use for food fish or shellfish management purposes and propagation, or to any other agency of the state having jurisdiction over the resource damaged and for which said moneys were recovered, as appropriate: PROVIDED, That the agency receiving such money shall utilize not less than one-half of said money on activities or projects within the county where the action was brought by the attorney general. No action shall be authorized under this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to RCW 90.48.160.

Sec. 7. Section 7, chapter 133, Laws of 1969 ex. sess. as amended by section 9, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.350 are each amended to read as follows:

Any person who intentionally or negligently discharges oil, or causes or permits the entry of the same, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to twenty thousand dollars for every such violation, and for each day of a continuing violation; said amount to be determined by the director of the commission after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of chapter 90.48 RCW, and such other considerations as the director deems appropriate. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the director of the commission describing such violation with reasonable particularity and advising such person that the penalty is due. The director may, upon written application therefor, received within fifteen days, and when deemed in the best interest of the state in carrying out the purposes of this chapter, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as he in his discretion shall deem proper, and shall have the authority to ascertain the facts upon all such applications in such manner and under such regulations as he may deem proper. If the amount of such penalty is not paid to the commission within fifteen days after the receipt of notice imposing the same, or if an application for remission or mitigation has been made within fifteen days as herein provided and the amount provided in the order issued by the director subsequent to such application is not paid within fifteen days after the receipt thereof, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or any other county in which such violator may do business, to recover the amount specified in the final order of the director. In all such actions the

procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund. No order issued under this section shall be construed as an order within the meaning of RCW 90.48.135.

Passed the Senate April 26, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 317

[Substitute Senate Bill No. 3776]

ARTS COMMISSION REAUTHORIZED—POWERS AND DUTIES MODIFIED

AN ACT Relating to the Washington state arts commission; amending RCW 43.46.030, 43.46.040, 43.46.045, 43.46.050, 43.46.055, and 43.46.070; adding new sections to chapter 43.46 RCW; repealing RCW 43.46.010, 43.46.020, 43.46.080, 43.131.261, and 43.131.262; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.46 RCW to read as follows:

The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington.

NEW SECTION. Sec. 2. A new section is added to chapter 43.46 RCW to read as follows:

There is established a Washington state arts commission. The commission consists of nineteen members appointed by the governor and two members of the legislature, one appointed by the president of the senate and one appointed by the speaker of the house of representatives. The legislative members shall be from opposite major political parties. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members.

Sec. 3. Section 43.46.030, chapter 8, Laws of 1965 as amended by section 4, chapter 125, Laws of 1967 ex. sess. and RCW 43.46.030 are each amended to read as follows:

~~((Initial appointments shall be seven members for one year terms, seven members for two year terms and seven members for))~~ Members shall serve three year terms. ~~((The office of))~~ A legislative member shall ~~((become vacant whenever he ceases to be))~~ serve as long as he or she is a member of the ~~((senate or house of representatives))~~ legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. ~~((Subsequent appointments shall be for three year terms except appointments for))~~ Vacancies ~~((which))~~ shall be ~~((for))~~ filled by appointment for the remainder of the unexpired term(s).

Sec. 4. Section 43.46.040, chapter 8, Laws of 1965 and RCW 43.46.040 are each amended to read as follows:

Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a ~~((chairman))~~ chairperson annually, and adopt ~~((its own))~~ rules ~~((and regulations))~~ pursuant to chapter 34.04 RCW. A majority of its members ~~((shall))~~ constitute a quorum. Any action as defined in RCW 42.30.020(3) shall be taken only at a meeting at which a quorum is present.

Sec. 5. Section 2, chapter 125, Laws of 1967 ex. sess. and RCW 43.46.045 are each amended to read as follows:

The commission may select and employ a full time executive ~~((secretary))~~ director, who shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the ~~((commission))~~ executive director may also employ such clerical and other assistants as may be reasonably required to carry out ~~((its))~~ commission functions ~~((and shall fix their compensation)).~~

Sec. 6. Section 43.46.050, chapter 8, Laws of 1965 and RCW 43.46.050 are each amended to read as follows:

The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the ~~((beautification and))~~ cultural development of the state of Washington.

Sec. 7. Section 1, chapter 125, Laws of 1967 ex. sess. and RCW 43.46.055 are each amended to read as follows:

The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts and humanities in the state of Washington and may ~~((cooperate with))~~ assist any person or public or private agency to this end.

Sec. 8. Section 43.46.070, chapter 8, Laws of 1965 and RCW 43.46.070 are each amended to read as follows:

The commission shall make ~~((an annual))~~ a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

- (1) Section 43.46.010, chapter 8, Laws of 1965 and RCW 43.46.010;
- (2) Section 43.46.020, chapter 8, Laws of 1965, section 3, chapter 125, Laws of 1967 ex. sess. and RCW 43.46.020;
- (3) Section 43.46.080, chapter 8, Laws of 1965 and RCW 43.46.080;
- (4) Section 4, chapter 197, Laws of 1983 and RCW 43.131.261; and
- (5) Section 30, chapter 197, Laws of 1983 and RCW 43.131.262.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the Senate April 22, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 318

[Senate Bill No. 3202]

BUILDING PERMITS TO CONTAIN COUNTY ASSESSOR PARCEL NUMBER

AN ACT Relating to counties; and amending RCW 36.21.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.21.060, chapter 4, Laws of 1963 and RCW 36.21-.060 are each amended to read as follows:

Whenever any issuer issues a building permit for the construction of any building, such issuer shall immediately transmit a copy of the permit to the county assessor of the county in which such building is to be constructed. The building permit shall contain the county assessor's parcel number where available.

Passed the Senate April 25, 1985.

Passed the House April 24, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 319

[Senate Bill No. 3420]

OPEN SPACE CLASSIFICATION—TERMINATION OF CLASSIFICATION—
PENALTY EXEMPTION REVISION

AN ACT Relating to property taxation; amending RCW 84.34.108; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 12, chapter 212, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 41, Laws of 1983 and RCW 84.34.108 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of such designation shall be made each year upon the assessment and tax rolls and such land shall be valued pursuant to RCW 84.34.060 or 84.34-.065 until removal of all or a portion of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of such designation;

(b) Sale or transfer to an ownership making all or a portion of such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of such land is no longer primarily devoted to and used for the purposes under which it was granted classification.

(2) Within thirty days after such removal of all or a portion of such land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (5) of this section, an additional tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of such an additional tax and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such additional tax shall be equal to:

(a) The difference between the property tax paid as "open space land", "farm and agricultural land", or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified; plus

(b) Interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter.

(4) Additional tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from current use classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050 now or as hereafter amended. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The additional tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020; ((or))

(g) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections: PROVIDED, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (3) of this section shall be imposed; or

(h) Transfer to a nonprofit, nonsectarian organization or association, organized and conducted for nonsectarian purposes, and such land would qualify for property tax exemption pursuant to RCW 84.36.030 and is used solely for the benefit of the poor and infirm. This subsection (h) applies only to taxes, penalties, and interest under this section that have been assessed for the removal of property from classification under this chapter after September 1, 1977, and before July 1, 1980. Any person or entity who has paid taxes to which this subsection (h) applies may apply within one hundred and eighty days after the effective date of this act for a refund of the tax paid.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 320

[Substitute Senate Bill No. 3540]

HEALTH MAINTENANCE ORGANIZATIONS—REFERENCES CORRECTED— ENDORSEMENTS—CONTINUATION OF POLICIES

AN ACT Relating to health maintenance organizations; amending RCW 48.46.030, 48.46.060, 48.46.070, 48.46.240, 48.46.270, 48.46.320, and 48.46.360; adding new sections to chapter 48.46 RCW; and repealing RCW 48.46.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 290, Laws of 1975 1st ex. sess. as amended by section 2, chapter 106, Laws of 1983 and RCW 48.46.030 are each amended to read as follows:

Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington,

public hospital district, or public institutions of higher education shall be entitled to a certificate of registration as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

(2) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020(7), and 48.46.070; and

(3) Affords enrolled participants with a meaningful grievance procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020(8) and 48.46.100; and

(4) Provides enrolled participants, or makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and

(5) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

(6) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

(7) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant;

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance (~~(contract)~~) agreement to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) A detailed description of the enrollee complaint system as provided by RCW 48.46.100;

(m) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality; and

(n) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (~~((f8))~~) (7) of this section. Such notice shall be filed with the commissioner.

Sec. 2. Section 7, chapter 290, Laws of 1975 1st ex. sess. as amended by section 4, chapter 106, Laws of 1983 and RCW 48.46.060 are each amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of

the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.04 RCW, the commissioner may disapprove (~~(a contract)~~) an agreement form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the (~~(contract)~~) agreement;

(b) If it has any title, heading, or other indication which is misleading;

(c) If purchase of health care services thereunder is being solicited by deceptive advertising;

(d) If the benefits provided therein are unreasonable in relation to the amount charged for the (~~(contract)~~) agreement;

(e) If it contains unreasonable restrictions on the treatment of patients;

or

(f) If it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.04 RCW.

(4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: PROVIDED HOWEVER, That nothing contained herein shall prevent cancellation of (~~(a contract)~~) an agreement with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge,

including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(5) No ~~((contract))~~ agreement form or amendment to an approved ~~((contract))~~ agreement form shall be used unless it is first filed with the commissioner.

Sec. 3. Section 8, chapter 290, Laws of 1975 1st ex. sess. as amended by section 5, chapter 106, Laws of 1983 and RCW 48.46.070 are each amended to read as follows:

(1) The members of the governing body of a health maintenance organization shall be nominated by the voting members or by the enrolled participants and providers, and shall be elected by the enrolled participants or voting members pursuant to the provisions of their bylaws, which shall not be restricted to providers. At least one-third of such body shall consist of consumers who are substantially representative of the enrolled population of such organization: ~~PROVIDED, HOWEVER, That ((any panel medicine plan, qualified pursuant to chapter 41.05 RCW, and licensed as a health care contractor as of January 1, 1975, may have a governing body which shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population: PROVIDED FURTHER, That))~~ any organization that is a qualified health maintenance organization under P.L. 93-222 (Title XIII, section 1310(d) of the public health services act) is deemed to have satisfied these governing body requirements and the requirements of RCW 48.46.030(2).

(2) For health maintenance organizations formed by public institutions of higher education or public hospital districts, the governing body shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population.

Sec. 4. Section 3, chapter 151, Laws of 1982 and RCW 48.46.240 are each amended to read as follows:

(1) Each health maintenance organization obtaining a certificate of authority from the commissioner shall provide and maintain a funded reserve of one hundred fifty thousand dollars, which shall be in addition to any deposit or contingent reserve requirements set forth in RCW 48.46.230. The funded reserve shall be deposited with the commissioner or with any organization/trustee acceptable to him in the form of cash, securities eligible for investment by the health maintenance organization pursuant to chapter 48.13 RCW, or any combination of these or other measures that are acceptable to the commissioner, and must equal or exceed one hundred fifty thousand dollars. The funded reserve shall be established as a guarantee that the uncovered expenditure obligations of the health maintenance organization to the enrolled participants will be performed.

(2) Any health maintenance organization that is in operation on January 1, 1983, shall establish a funded reserve of one hundred thousand dollars within one year and accrue twenty-five thousand dollars on the first day of the second and third fiscal years following twelve months after January 1, 1983.

~~((3) Any health maintenance organization meeting the requirements of this section shall be exempt from the requirements of RCW 48.44.030.)~~

Sec. 5. Section 14, chapter 202, Laws of 1983 and RCW 48.46.270 are each amended to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a ~~((domestic))~~ health maintenance organization and no officer or director of a health maintenance organization shall accept, except ~~((as agent))~~ for the health maintenance organization, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale ~~((or))~~ of health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health maintenance organization, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health maintenance organization directly upon approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health maintenance organization's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health maintenance organization, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health maintenance organization in the ordinary course of the health maintenance organization's business and in the usual private professional or business capacity of the director or the corporation or firm.

Sec. 6. Section 10, chapter 106, Laws of 1983 and RCW 48.46.320 are each amended to read as follows:

Any health maintenance agreement which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the ~~((contract))~~ agreement shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both: (1) Incapable of self-sustaining employment by reason of developmental disability or physical handicap; and (2) chiefly dependent upon the subscriber for support and maintenance, if proof of such incapacity and dependency is furnished to the health maintenance organization by the enrolled participant within thirty-one days of the child's attainment of the

limiting age and subsequently as required by the health maintenance organization but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

NEW SECTION. Sec. 7. A new section is added to chapter 48.46 RCW to read as follows:

If an individual health care service agreement is issued on any basis other than as applied for, an endorsement setting forth such modification must accompany and be attached to the agreement. No agreement shall be effective unless the endorsement is signed by the applicant, and a signed copy thereof returned to the health maintenance organization.

NEW SECTION. Sec. 8. A new section is added to chapter 48.46 RCW to read as follows:

Every health care service agreement issued, amended, or renewed after January 1, 1986, for an individual and his or her dependents shall contain provisions to assure that the covered spouse and/or dependents, in the event that any cease to be a qualified family member by reason of termination of marriage or death of the principal enrollee, shall have the right to continue the health maintenance agreement without a physical examination, statement of health, or other proof of insurability.

NEW SECTION. Sec. 9. Section 11, chapter 106, Laws of 1983 and RCW 48.46.330 are each repealed.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 321

[Engrossed Senate Bill No. 3804]

ACQUIRED IMMUNE DEFICIENCY—BLOOD DONATION TRANSACTIONS— LIABILITY

AN ACT Relating to blood; amending RCW 70.54.120; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 56, Laws of 1971 and RCW 70.54.120 are each amended to read as follows:

The procurement, processing, storage, distribution, administration, or use of whole blood, plasma, blood products and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body is declared to be, for all purposes whatsoever, the rendition of a service by each and every person, firm, or corporation participating therein, and is declared not to be covered by any implied warranty under the Uniform Commercial Code, Title 62A RCW, or otherwise, and no civil liability shall be incurred as a result of any of such acts, except in the case of wilful

or negligent conduct: PROVIDED, HOWEVER, That this section shall apply only to liability alleged in the contraction of hepatitis ((and)), malaria, and acquired immune deficiency disease and shall not apply to any transaction in which the blood donor receives compensation: PROVIDED FURTHER, That this section shall only apply where the person, firm or corporation rendering the above service shall have maintained records of donor suitability and donor identification similar to those specified in sections 73.301 and 73.302(c) as now written or hereafter amended in Title 42, Public Health Service Regulations adopted pursuant to the Public Health Service Act, 42 U.S.C. 262: PROVIDED FURTHER, That nothing in this section shall be considered by the courts in determining or applying the law to any blood transfusion occurring before June 10, 1971 and the court shall decide such case as though this section had not been passed.

NEW SECTION. Sec. 2. The department of social and health services shall provide a written report to the senate committee on human services and corrections and the house of representatives committee on social and health services by January 1, 1986, providing a description of the current policies and procedures utilized by blood banks for detecting the presence of acquired immune deficiency disease in potential donors, the utilization of such procedures, costs of administering the procedures, and statistics on the number of cases of acquired immune deficiency disease reported as a result of the blood banks' screening procedures and information acquired as a result of transfusions. The department shall have the authority to collect data from blood banks, as necessary to develop the report.

Passed the Senate March 18, 1985.

Passed the House April 17, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 322

[Senate Bill No. 3829]

PHYSICIAN LICENSURE—ACUPUNCTURE LICENSURE

AN ACT Relating to medical practice; amending RCW 18.71.050, 18.71.070, 18.71.095, and 18.71A.080; reenacting and amending RCW 18.71.040 and 18.71.080; and reenacting RCW 18.71.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35, chapter 202, Laws of 1955 as amended by section 61, chapter 30, Laws of 1975 1st ex. sess. and by section 6, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.040 are each reenacted and amended to read as follows:

Every applicant for a certificate to practice medicine and surgery shall pay a fee determined by the director as provided in RCW ((43.24.085 as

~~now or hereafter amended. In addition to the application fee provided for herein, every applicant for licensure by examination shall pay an examination fee of one hundred dollars, which sum shall be refunded in the event the board determines that the applicant is not eligible for examination. In addition to the application fee provided for herein, every applicant for licensure by reciprocity or waiver of examination shall pay a fee of fifty dollars. The director shall charge a fee of fifteen dollars for license certifications)~~ 43.24.086.

Sec. 2. Section 3, chapter 60, Laws of 1957 as last amended by section 7, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.050 are each amended to read as follows:

Each applicant who has graduated from a school of medicine located in any state, territory or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the director with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

(1) That ~~((he))~~ the applicant has attended and graduated from a school of medicine approved by the board;

(2) That ~~((he))~~ the applicant has completed ~~((one))~~ two years of post-graduate medical training in a program acceptable to the board, provided that applicants graduating before the effective date of this 1985 act may complete only one year of post-graduate medical training;

(3) That ~~((he))~~ the applicant is of good moral character;

(4) That ~~((he))~~ the applicant is physically and mentally capable of safely carrying on the practice of medicine. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine;

(5) That ~~((his))~~ the applicant's license to practice medicine is not at the time of the application revoked or suspended by any licensing agency and that ~~((he))~~ the applicant has not been guilty of any conduct which would constitute grounds for refusal, revocation or suspension of such license under the laws of the state of Washington.

Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary.

Sec. 3. Section 6, chapter 192, Laws of 1909 as last amended by section 10, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.070 are each amended to read as follows:

With the exception of those applicants granted licensure through the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure must successfully complete an examination administered by the board to determine their professional qualifications. The board shall prepare and give, or

approve the preparation and giving of, an examination which shall cover those general subjects and topics, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine conferred by approved colleges or schools of medicine in the United States. Notwithstanding any other provision of law, the board shall have the sole responsibility for determining the proficiency of applicants under this chapter, and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The board may by rule establish the passing grade for the examination (~~(, and in so doing may grant credit based on experience. In no event, however, shall credit for experience exceed five percent of the total possible grade)~~).

Examination results shall be part of the records of the board and shall be permanently kept with the applicant's file.

Sec. 4. Section 36, chapter 202, Laws of 1955 as last amended by section 53, chapter 158, Laws of 1979 and by sections 54 and 55, chapter 158, Laws of 1979 and RCW 18.71.080 are each reenacted and amended to read as follows:

Every person licensed to practice medicine in this state shall register with the director of licensing annually, and pay an annual renewal registration fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended, on or before the first day of July of each year)~~) 43.24.086. The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director, and payment to the state of a penalty fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, together with all delinquent annual license renewal fees: **PROVIDED, HOWEVER,** That any person who fails to renew ~~((his))~~ the license for a period of three years, shall in no event be entitled to renew ~~((his))~~ the license under this section. Such a person in order to obtain a license to practice medicine in this state, shall file an original application as provided for in this chapter, along with the requisite fee therefor. The board, in its sole discretion, may permit such applicant to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine.

Sec. 5. Section 11, chapter 134, Laws of 1919 as last amended by section 63, chapter 30, Laws of 1975 1st ex. sess. and by section 12, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.090 are each reenacted to read as follows:

Any applicant who meets the requirements of RCW 18.71.050 and has been licensed under the laws of another state, territory, or possession of the

United States, or of any province of Canada, or an applicant who has satisfactorily passed examinations given by the national board of medical examiners may, in the discretion of the board, be granted a license without examination on the payment of the fees required by this chapter: PROVIDED, That ~~((he))~~ the applicant must file with the board a copy of ~~((his))~~ the license certified by the proper authorities of the issuing state to be a full, true copy thereof, and must show that the standards, eligibility requirements and examinations of that state are at least equal in all respects to those of this state.

Sec. 6. Section 1, chapter 189, Laws of 1959 as last amended by section 13, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.095 are each amended to read as follows:

The board may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The board may, upon the written request of the secretary of the department of social and health services or the secretary of corrections, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department of social and health services or the department of corrections as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services or the department of corrections.

(2) The board may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of ~~((one))~~ two years of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the board, the board may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his or her duties as a resident physician and shall not authorize ~~((him))~~

the physician to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the medical disciplinary board to the same extent as other members of the medical profession, in accordance with chapter 18.72 RCW and in addition, the limited license to practice medicine in the state of Washington may be revoked by the medical disciplinary board after a hearing has been held in accordance with the provisions set forth in chapter 18.72 RCW, and determination made by the medical disciplinary board that such licensee has violated the limitations set forth herein.

Persons applying for licensure pursuant to this section shall pay an application fee (~~(of twenty-five dollars)~~) determined by the director as provided in RCW 43.24.086 and, in the event the license applied for is issued, a license fee at the rate provided for renewals of licenses generally. Licenses issued hereunder may be renewed annually pursuant to the provisions of RCW 18.71.080(~~(- PROVIDED, That a limited license for a resident physician may not be renewed until such resident physician has successfully completed either all parts of the examination given by the national board of medical examiners or an equivalent examination approved by the board. Interim approval may be granted until the result of such examination becomes available)~~). Any person who obtains a limited license pursuant to this section may, without an additional application fee, apply for licensure under this chapter.

Sec. 7. Section 2, chapter 233, Laws of 1977 ex. sess. and RCW 18.71A.080 are each amended to read as follows:

(1) The performance of acupuncture for the purpose of demonstration, therapy, or the induction of analgesia by a person licensed under this chapter shall be within the scope of practice authorized: PROVIDED, HOWEVER, That a person licensed to perform acupuncture under this section shall only do so under the direct supervision of a licensed physician.

(2) The board shall determine the qualifications of a person authorized to perform acupuncture under subsection (1) of this section. (~~(In establishing a procedure for certification of such practitioners the board shall consider a license or certificate which acknowledges that the person has the qualifications to practice acupuncture issued by the government of the Republic of China (Taiwan), the Peoples' Republic of China, British Crown Colony of Hong Kong, Korea, Great Britain, France, the Federated Republic of Germany (West Germany), Italy, Japan, or any other country or state which has generally equivalent standards of practices of acupuncture as determined by the board as evidence of such qualification:))~~)

(3) As used in this section "acupuncture" means the insertion of needles into the human body by piercing the skin of the body for the purpose of relieving pain, treating disease, or to produce analgesia, or as further defined by rules and regulations of the board.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 323

[Senate Bill No. 3851]

MINORS IN LICENSED LIQUOR PREMISES—CLASS EXPANDED

AN ACT Relating to presence of persons eighteen years of age or older on licensed premises; and amending RCW 66.44.316.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 96, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 136, Laws of 1984 and RCW 66.44.316 are each amended to read as follows:

It is lawful for:

(1) Professional musicians, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys, eighteen years of age and older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment as musicians, disc jockeys, or sound or lighting technicians;

(2) Persons eighteen years of age and older performing janitorial services to enter and remain on premises licensed under the provisions of Title 66 RCW when the premises are closed but only during and in the course of their performance of janitorial services; ~~((and))~~

(3) Employees of amusement device companies, which employees are eighteen years of age or older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices; and

(4) Security and law enforcement officers, and fire fighters eighteen years of age or older to enter and to remain in any premises licensed under Title 66 RCW, but only during and in the course of their official duties and only if they are not the direct employees of the licensee. However, the application of the subsection to security officers is limited to casual, isolated

incidents arising in the course of their duties and does not extend to continuous or frequent entering or remaining in any licensed premises.

This section shall not be construed as permitting the sale or distribution of any alcoholic beverages to any person under the age of twenty-one years.

Passed the Senate April 23, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 324

[Engrossed Senate Bill No. 4206]

SCHOOL DISTRICT BIDDING PROCEDURES

AN ACT Relating to school bidding procedures; and amending RCW 28A.58.135.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28A.58.135, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 61, Laws of 1980 and RCW 28A.58.135 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of ~~((ten))~~ twenty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: **PROVIDED**, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of ~~((forty=five))~~ seventy-five hundred dollars. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of ~~((forty=five))~~ seventy-five hundred dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from ~~((forty=five))~~ seventy-

five hundred dollars up to ~~((ten))~~ twenty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of ~~((ten))~~ twenty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of ~~((forty-five))~~ seventy-five hundred dollars, shall be on a competitive bid process. All such projects estimated to be less than ~~((ten))~~ twenty thousand dollars may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall establish a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the district. Responsible contractors shall be added to the list at any time they submit a written request. Whenever the estimated cost of a public works project is ~~((ten))~~ twenty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911~~((:PROVIDED; That when bids have been solicited in the manner provided for in subsections (2) or (3) of this section and there is reason to believe that the lowest acceptable bid is not the best obtainable, all bids may be rejected, and the board may call for new bids. Any or all bids may be rejected for good cause))~~ but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or his agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition

likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

Passed the Senate April 23, 1985.

Passed the House April 10, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 325

[Substitute Senate Bill No. 4358]

DEPARTMENT OF LABOR AND INDUSTRIES—TWO DEPUTY DIRECTORS ALLOWED

AN ACT Relating to revising the administrative structure of the department of labor and industries; and amending RCW 43.22.005.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 32, Laws of 1969 ex. sess. and RCW 43.22-.005 are each amended to read as follows:

The director of labor and industries may appoint and deputize ~~((an))~~ two assistant directors to be known as ~~((the))~~ deputy ~~((director, and))~~ directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director.

Passed the Senate March 20, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 326

[Substitute House Bill No. 270]

ACUPUNCTURE LICENSURE

AN ACT Relating to acupuncture; amending RCW 4.24.240, 4.24.290, 7.70.020, and 18.130.040; reenacting and amending RCW 18.120.020; adding a new chapter to Title 18 RCW; prescribing penalties; providing an expiration date; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Acupuncture" means a health care service based on a traditional Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating

specific acupuncture points or meridians. Acupuncture includes but is not necessarily limited to the following techniques:

(a) Use of acupuncture needles to stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique (gwa hsa);

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Dietary advice based on traditional Chinese medical theory; and

(k) Point injection therapy (aquapuncture).

(2) "Acupuncturist" means a person certified under this chapter.

(3) "Department" means the department of licensing.

(4) "Director" means the director of licensing or the director's designee.

NEW SECTION. Sec. 2. (1) No one may hold themselves out to the public as an acupuncturist or certified acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or certified acupuncturist unless certified as provided for in this chapter.

(2) No one may use any configuration of letters after their name (including Ac.) which indicates a degree or formal training in acupuncture unless certified as provided for in this chapter.

(3) The director may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is certified under this chapter.

NEW SECTION. Sec. 3. Any person certified as provided for in this chapter may practice acupuncture irrespective of any other occupational licensing law. This authorization also extends to:

(1) The practice of acupuncture by a person who is a regular student in a school of acupuncture approved by the director: PROVIDED, HOWEVER, That the performance of such services be pursuant only to a regular course of instruction or assignments from his instructor and that such services are performed only under the direct supervision and control of a person certified pursuant to this chapter or licensed under any other healing art whose scope of practice includes acupuncture; and

(2) The practice of acupuncture by any person licensed or certified to perform acupuncture in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by

the director or in an educational seminar sponsored by a professional organization of acupuncture: PROVIDED, That in the latter case, the practice is supervised directly by a person certified pursuant to this chapter or licensed under any other healing art whose scope of practice includes acupuncture.

NEW SECTION. Sec. 4. The proscriptions contained in section 2 (1) and (2) of this act do not extend to:

(1) Those holding valid licenses under chapter 18.71, 18.57, 18.22, or 18.32 RCW operating within their lawful scopes of practice or valid registration authorizing the performance of acupuncture procedures pursuant to chapter 18.71A or 18.57A RCW;

(2) Those practicing acupuncture in the state under the authority of any instrumentality of the United States; and

(3) Those performing acupuncture procedures under section 3 (1) and (2) of this act.

PROVIDED, That such persons shall not hold themselves out as being certified acupuncturists under this chapter.

*NEW SECTION. Sec. 5. Any person seeking to be examined shall present to the director at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the director setting forth under affidavit such information as the director may require; and

(2) Proof that the candidate has:

(a) ***Completed a minimum of two academic years or seventy-two quarter credits of undergraduate college education in the general sciences and humanities prior to entering an acupuncture training program. The obtaining of a degree is not required for the educational credits to qualify;***

(b) Successfully completed a course, approved by the director, of didactic training in basic sciences and acupuncture over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, bacteriology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a drugless healer under chapter 18.36 RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the director;

(c) Successfully completed a course, approved by the director, of clinical training in acupuncture over a minimum period of one academic year. The training shall include a minimum of: (i) Twenty-nine quarter credits of supervised practice, consisting of at least four hundred separate patient treatments involving a minimum of one hundred different patients, and (ii)

one hundred hours or nine quarter credits of observation which shall include case presentation and discussion.

*Sec. 5 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 6. The department shall consider for approval any school, program, apprenticeship, or tutorial which meets the requirements outlined in this chapter and provides the training required under section 5 of this act. Clinical and didactic training may be approved as separate programs or as a joint program. The process for approval shall be established by the director by rule.

NEW SECTION. Sec. 7. No applicant may be permitted to take an examination under this chapter until the director has approved his or her application and the applicant has paid an examination fee as prescribed under RCW 43.24.086. The examination fee shall accompany the application.

NEW SECTION. Sec. 8. (1) The director of licensing is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in acupuncture at least twice a year at such times and places as the director may select. The examination shall be a written examination in English and may include a practical examination.

(2) The director shall develop or approve a licensure examination in the subjects that the director determines are within the scope of and commensurate with the work performed by certified acupuncturists and shall include but not necessarily be limited to anatomy, physiology, bacteriology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the director and there retained for a least one year, when they may be destroyed.

(3) If the examination is successfully passed, the director shall confer on such candidate the title of Certified Acupuncturist.

NEW SECTION. Sec. 9. Before certification, each applicant shall demonstrate sufficient fluency in reading, speaking, and understanding the English language to enable the applicant to communicate with other health care providers and patients concerning health care problems and treatment.

NEW SECTION. Sec. 10. Each applicant shall, as part of his or her application, furnish written consent to an investigation of his or her personal background, professional training, and experience by the department or any person acting on its behalf.

NEW SECTION. Sec. 11. The uniform disciplinary act, chapter 18-.130 RCW, governs the issuance and denial of certificates and the disciplining of certificate holders under this chapter. The director shall be the disciplining authority under this chapter.

NEW SECTION. Sec. 12. (1) Every person certified in acupuncture shall register with the director annually and pay an annual renewal registration fee determined by the director as provided in RCW 43.24.086 on or

before the certificate holder's birth anniversary date. The certificate of the person shall be renewed for a period of one year or longer in the discretion of the director.

(2) Any failure to register and pay the annual renewal registration fee shall render the certificate invalid. The certificate shall be reinstated upon: (a) Written application to the director; (b) payment to the state of a penalty fee determined by the director as provided in RCW 43.24.086; and (c) payment to the state of all delinquent annual certificate renewal fees.

(3) Any person who fails to renew his or her certification for a period of three years shall not be entitled to renew such certification under this section. Such person, in order to obtain a certification in acupuncture in this state, shall file a new application under this chapter, along with the required fee, and shall meet examination or continuing education requirements as the director, by rule, provides.

(4) All fees collected under this section and section 6 of this act shall be credited to the health professions account as required under RCW 43.24.072.

NEW SECTION. Sec. 13. The director shall develop a form to be used by an acupuncturist to inform the patient of the acupuncturist's scope of practice and qualifications. All certificate holders shall bring the form to the attention of the patients in whatever manner the director, by rule, provides.

NEW SECTION. Sec. 14. Every certified acupuncturist shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for certification as well as annually thereafter with the certificate renewal fee to the department. The department may withhold certification or renewal of certification if the plan fails to meet the standards contained in rules promulgated by the director.

When the acupuncturist sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the acupuncturist shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be continued.

NEW SECTION. Sec. 15. Any person violating the provisions of section 13 or 14 of this act shall be guilty of a misdemeanor and shall be punished as provided in RCW 9.92.030.

NEW SECTION. Sec. 16. The director shall adopt rules in the manner provided by chapter 34.04 RCW as are necessary to carry out the purposes of this chapter.

NEW SECTION. Sec. 17. (1) The acupuncture advisory committee is created. The committee shall be composed of one physician licensed under chapter 18.71 or 18.57 RCW, three acupuncturists certified under this chapter, and one public member, who does not have any financial interest in the rendering of health services.

(2) The director shall appoint members to staggered terms so as to provide continuity in membership. Members shall serve at the pleasure of the director but may not serve more than five years total. Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) Each member of the committee shall receive fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the director.

(4) The committee shall meet only on the request of the director and consider only those matters referred to it by the director.

NEW SECTION. Sec. 18. All persons registered as acupuncture assistants pursuant to chapter 18.71A or 18.57A RCW on the effective date of this act shall be certified under this chapter by the director without examination if they otherwise would qualify for certification under this chapter and apply for certification within one hundred twenty days of the effective date of this act.

NEW SECTION. Sec. 19. The director may certify a person without examination if such person is licensed or certified as an acupuncturist in another jurisdiction if, in the director's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

NEW SECTION. Sec. 20. Nothing in this chapter may be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person registered or certified under this chapter.

NEW SECTION. Sec. 21. This chapter shall not be construed as permitting the administration or prescription of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 or 18.57 RCW, except as authorized in this chapter.

NEW SECTION. Sec. 22. Sections 1 through 21 of this act shall terminate on July 1, 1991, and shall be subject to the process provided for in chapter 43.131 RCW.

NEW SECTION. Sec. 23. Sections 1 through 21 of this act are each repealed effective July 1, 1992.

NEW SECTION. Sec. 24. Sections 1 through 23 of this act shall constitute a new chapter in Title 18 RCW.

Sec. 25. Section 1, chapter 157, Laws of 1969 ex. sess. as last amended by section 4, chapter 56, Laws of 1975-'76 2nd ex. sess. and RCW 4.24.240 are each amended to read as follows:

(1) (a) A person licensed by this state to provide health care or related services, including, but not limited to, a certified acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his employment, including in the event such officer, director, employee, or agent is deceased, his estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

Sec. 26. Section 1, chapter 35, Laws of 1975 1st ex. sess. as amended by section 1, chapter 149, Laws of 1983 and RCW 4.24.290 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an acupuncturist certified under chapter 18.—RCW (sections 1 through 23 of this 1985 act), a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed

under chapter 18.32 RCW, a podiatrist licensed under chapter 18.22 RCW, or a nurse licensed under chapters 18.78 or 18.88 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

Sec. 27. Section 7, chapter 56, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 53, Laws of 1981 and RCW 7.70.020 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a certified acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his employment, including in the event such officer, director, employee, or agent is deceased, his estate or personal representative.

Sec. 28. Section 2, chapter 168, Laws of 1983 as amended by section 18, chapter 9, Laws of 1984 and by section 57, chapter 279, Laws of 1984 and RCW 18.120.020 are each reenacted and amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession

prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; drugless healing under chapter 18.36 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; veterinarians and animal technicians under chapter 18.92 RCW; ((and)) massage practitioners under chapter 18.108 RCW; and acupuncturists certified under chapter 18.— RCW (sections 1 through 23 of this 1985 act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License", "licensing", and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 29. Section 4, chapter 279, Laws of 1984 and RCW 18.130.040 are each amended to read as follows:

(1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2) (a) The director has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Drugless healers licensed under chapter 18.36 RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Psychologists licensed under chapter 18.83 RCW unless a disciplinary committee is established under chapter 18.83 RCW;
- (vi) Massage operators and businesses licensed under chapter 18.108 RCW; ~~((and))~~
- (vii) Dental hygienists licensed under chapter 18.29 RCW; and
- (viii) Acupuncturists certified under chapter 18.— RCW (sections 1 through 23 of this 1985 act).

(b) The boards having authority under this chapter are as follows:

- (i) The podiatry board as established in chapter 18.22 RCW;
- (ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;
- (iii) The dental disciplinary board as established in chapter 18.32 RCW;

- (iv) The council on hearing aids as established in chapter 18.35 RCW;
- (v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;
- (vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
- (vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (x) The board of physical therapy as established in chapter 18.74 RCW;
- (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
- (xii) The board of practical nursing as established in chapter 18.78 RCW;
- (xiii) The board of nursing as established in chapter 18.88 RCW; and
- (xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter governs any investigation, hearing, or proceeding relating to denial of licensure by the disciplining authority, the board of chiropractic examiners, the board of dental examiners, and the board of medical examiners, if adopted pursuant to this chapter by the disciplinary authority.

NEW SECTION. Sec. 30. There is hereby appropriated the sum of eighty-one thousand seven hundred seven dollars to the department of licensing from the health professions account—general fund for the implementation of this chapter for the 1985–87 biennium.

Passed the House April 22, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor May 16, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 16, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one portion Substitute House Bill No. 270, entitled:

"AN ACT Relating to acupuncture;"

Section 5(2)(a) of this bill would require applicants for licensure as an acupuncturist to complete two years of college training in the general sciences and humanities before undertaking acupuncture training. While general education is certainly desirable, we must be careful not to impose any requirements on applicants that are not specifically related to their ability to practice competently. This two-year education requirement does not relate to competence, and neither does the requirement that it be completed before occupational training commences.

With the exception of Section 5(2)(a), Substitute House Bill No. 270 is approved."

CHAPTER 327

[House Bill No. 107]

INTIMIDATING A JUDGE—CLASS B FELONY—INTIMIDATING WITNESSES OR JURORS—REVISIONS

AN ACT Relating to interference with official proceedings; amending RCW 9A.72.110 and 9A.72.130; adding a new section to chapter 9A.72 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9A.72 RCW to read as follows:

(1) A person is guilty of intimidating a judge if a person directs a threat to a judge because of a ruling or decision of the judge in any official proceeding, or if by use of a threat directed to a judge, a person attempts to influence a ruling or decision of the judge in any official proceeding.

(2) "Threat" as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110(25).

(3) Intimidating a judge is a class B felony.

Sec. 2. Section 9A.72.110, chapter 260, Laws of 1975 1st ex. sess. as amended by section 18, chapter 47, Laws of 1982 1st ex. sess. and RCW 9A.72.110 are each amended to read as follows:

(1) A person is guilty of intimidating a witness if a person directs a threat to a former witness because of the witness' testimony in any official proceeding, or if, by use of a threat directed to a current witness or a person he has reason to believe is about to be called as a witness in any official proceeding or to a person whom he has reason to believe may have information relevant to a criminal investigation, he attempts to:

(a) Influence the testimony of that person; or

(b) Induce that person to elude legal process summoning him to testify;

or

(c) Induce that person to absent himself from such proceedings.

(2) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(3) Intimidating a witness is a class B felony.

Sec. 3. Section 9A.72.130, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.72.130 are each amended to read as follows:

(1) A person is guilty of intimidating a juror if a person directs a threat to a former juror because of the juror's vote, opinion, decision, or other official action as a juror, or if, by use of a threat, he attempts to influence a juror's vote, opinion, decision, or other official action as a juror.

(2) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(3) Intimidating a juror is a class B felony.

Passed the House January 30, 1985.

Passed the Senate April 24, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 328

[Engrossed Substitute House Bill No. 957]

UNDERINSURED MOTOR VEHICLE INSURANCE

AN ACT Relating to insurance; and amending RCW 48.22.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 27, chapter 150, Laws of 1967 as last amended by section 1, chapter 182, Laws of 1983 and RCW 48.22.030 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage, suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided

therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles because of bodily injury, death, or property damage, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy. The coverage required to be offered under this chapter is not applicable to general liability policies, commonly known as umbrella policies, or other policies which apply only as excess to the insurance directly applicable to the vehicle insured.

(3) Except as to property damage, coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section. Coverage for property damage need only be issued in conjunction with coverage for bodily injury or death. Property damage coverage required under subsection (2) of this section shall mean physical damage to the insured motor vehicle unless the policy specifically provides coverage for the contents thereof or other forms of property damage.

(4) ~~((The))~~ A named insured or spouse may reject, in writing, underinsured coverage for bodily injury or death, or property damage, and the requirements of subsections (2) and (3) of this section shall not apply. If ~~((the))~~ a named insured or spouse has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless ~~((the))~~ a named insured or spouse subsequently requests such coverage in writing. The requirement of a written rejection under this subsection shall apply only to the original issuance of policies issued after July 24, 1983, and not to any renewal or replacement policy.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7) (a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a motor vehicle which causes bodily injury, death, or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident if:

(a) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an underinsured motorist claim resulting from the accident; and

(b) The accident has been reported to the appropriate law enforcement agency within seventy-two hours of the accident.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 329

[Substitute House Bill No. 1169]

BANKS—SUPERVISOR OF BANKING TO INVESTIGATE BANKS RECORD IN MEETING COMMUNITY CREDIT NEEDS

AN ACT Relating to financial institutions; amending RCW 30.04.210; adding new sections to chapter 30.04 RCW; creating a new chapter in Title 30 RCW; creating a new chapter in Title 32 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature believes that commercial banks and savings banks doing business in Washington state have a responsibility to meet the credit needs of the businesses and communities of Washington state, consistent with safe and sound business practices and the free exercise of management discretion.

This act is intended to provide the supervisor of banking and the supervisor of savings and loan associations with the information necessary to enable the supervisors to better determine whether commercial banks, savings banks, and savings and loan associations are meeting the convenience and needs of the public.

This act is further intended to condition the approval of any application by a commercial bank, savings bank, or savings and loan association for a new branch or satellite facility, for an acquisition, merger, conversion, or purchase of assets of another institution not required for solvency reasons, or for the exercise of any new power upon proof that the applicant is satisfactorily meeting the convenience and needs of its community or communities.

NEW SECTION. Sec. 2. (1) In conducting an examination of a bank chartered under Title 30 RCW, the supervisor of banking, deputy supervisor, or examiner shall investigate and assess the record of performance of

the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The supervisor shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the supervisor in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the supervisor shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(1) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The supervisor shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

- | | |
|-------------------------------|---|
| (a) Excellent performance: | 1 |
| (b) Good performance: | 2 |
| (c) Satisfactory performance: | 3 |
| (d) Inadequate performance: | 4 |
| (e) Poor performance: | 5 |

NEW SECTION. Sec. 3. Whenever the supervisor of banking must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the supervisor shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

Sec. 4. Section 30.04.210, chapter 33, Laws of 1955 as last amended by section 1, chapter 142, Laws of 1979 and RCW 30.04.210 are each amended to read as follows:

A bank or trust company may purchase, hold, and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: **PROVIDED**, That any bank or trust company shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the supervisor.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, against securities held by it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with section 5 of this act granting banks the power to invest directly or indirectly in unimproved or improved real estate.

No real estate specified in subdivision (4) shall be considered an asset of the bank or trust company holding the same in trust nor shall any real estate except that specified in subdivision (1) be carried as an asset on the bank's or trust company's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor.

NEW SECTION. Sec. 5. (1) In addition to the powers granted under RCW 30.04.210 and subject to the limitations and restrictions contained in this section and in sections 2 and 3 of this act, a bank:

- (a) May acquire any interest in unimproved or improved real property;
- (b) May construct, alter, and manage improvements of any description on real estate in which it holds a substantial equity interest.

(2) The powers granted under subsection (1) of this section do not include, and a bank may not:

(a) Manage any real property in which the bank does not own a substantial equity interest;

(b) Engage in activities of selling, leasing, or otherwise dealing in real property as an agent or broker; or

(c) Acquire any equity interest in any one to four-family dwelling that is used as a principal residence by the owner of the dwelling; however, this shall not prohibit a bank from making loans secured by such dwelling where all or part of the bank's anticipated compensation results from the appreciation and sale of such dwelling.

(3) The aggregate amount of funds invested under this section shall not exceed two percent of a bank's capital, surplus, and undivided profits. Such percentage amount shall be increased based upon the most recent community reinvestment rating assigned to a bank by the supervisor in accordance with section 2 of this act, as follows:

- | | |
|-------------------------------|-----------------|
| (a) Excellent performance: | Increase to 10% |
| (b) Good performance: | Increase to 8% |
| (c) Satisfactory performance: | Increase to 6% |
| (d) Inadequate performance: | Increase to 3% |
| (e) Poor performance: | No increase |

(4) For purposes of this section only, each bank will be deemed to have been assigned a community reinvestment rating of "1" for the period beginning with the effective date of this act, and ending December 31, 1986. Thereafter, each bank will be assigned an annual rating in accordance with section 2 of this act, which rating shall remain in effect for the next succeeding year and until the supervisor has conducted a new investigation and assigned a new rating for the next succeeding year, the process repeating on an annual basis.

(5) No bank may at any time be required to dispose of any investment made in accordance with this section due to the fact that the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

(6) The supervisor shall limit the amount that may be invested in a single project or investment and may adopt any rule necessary to the safe and sound exercise of powers granted by this section.

NEW SECTION. Sec. 6. (1) An amount equal to ten percent of the aggregate amount invested in real estate in accordance with section 5 of this act shall be placed in qualifying community investments as defined in subsection (2) of this section.

(2) "Qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low or moderate incomes reside, designed to meet the credit needs of such low or moderate-income areas, or that primarily benefits low and moderate-income residents of such areas. The term includes, but is not limited to, any of the following within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low and moderate-income areas.

(b) Investments in residential mortgage loans, home improvements loans, housing rehabilitation loans, and small business or small farm loans originated in low and moderate-income areas, or the purchase of such loans originated in low and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low and moderate-income areas.

The term does not include personal installment loans, loans made to purchase, or loans secured by an automobile.

(3) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank is deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

NEW SECTION. Sec. 7. The supervisor of banking shall adopt all rules necessary to implement sections 2 through 6 of this act by January 1, 1986.

NEW SECTION. Sec. 8. (1) In conducting an examination of a savings bank chartered under Title 32 RCW, the supervisor of banking, deputy supervisor, or examiner shall investigate and assess the record of performance of the savings bank in meeting the credit needs of the savings bank's entire community, including low and moderate-income neighborhoods. The supervisor shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the savings bank is

required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the supervisor in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the supervisor shall consider, independent of any federal determination, the following factors in assessing the savings bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors or board of trustees in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The supervisor shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each savings bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

- | | |
|-------------------------------|---|
| (a) Excellent performance: | 1 |
| (b) Good performance: | 2 |
| (c) Satisfactory performance: | 3 |
| (d) Inadequate performance: | 4 |
| (e) Poor performance: | 5 |

NEW SECTION. Sec. 9. Whenever the supervisor of banking must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the supervisor shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

NEW SECTION. Sec. 10. The supervisor of banking shall adopt all rules necessary to implement sections 8 and 9 of this act by January 1, 1986.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. (1) Sections 2, 3, and 7 of this act shall constitute a new chapter in Title 30 RCW. Sections 5 and 6 of this act shall be added to chapter 30.04 RCW.

(2) Sections 8 through 10 of this act shall constitute a new chapter in Title 32 RCW.

NEW SECTION. Sec. 13. This act shall take effect on January 1, 1986, but the supervisor of banking and the supervisor of savings and loans may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 330

[Reengrossed Substitute House Bill No. 23]

SPECIAL DISTRICTS—MEMBER COMPENSATION

AN ACT Relating to local government; and amending RCW 35.58.160, 52.14.010, 53.12.260, 54.12.080, 56.12.010, 57.12.010, and 70.44.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35.58.160, chapter 7, Laws of 1965 as amended by section 2, chapter 84, Laws of 1974 ex. sess. and RCW 35.58.160 are each amended to read as follows:

The chairman and committee chairmen of the metropolitan council except elected public officials serving on a full-time salaried basis may receive such compensation as the other members of the metropolitan council shall provide. Members of the council other than the chairman and committee chairmen shall receive compensation of fifty dollars per day or portion thereof for attendance at metropolitan council or committee meetings ((of forty dollars per diem)), or for performing other services on behalf of the metropolitan municipal corporation, but not exceeding a total of ((three hundred and twenty)) four thousand eight hundred dollars in any ((one month)) year, in addition to any compensation which they may receive as officers of component cities or counties: PROVIDED, That elected public officers serving in such capacities on a full-time basis shall not receive compensation for attendance at metropolitan, council, or committee meetings, or otherwise performing services on behalf of the metropolitan municipal corporation: PROVIDED FURTHER, That committee chairmen shall not receive compensation in any one year greater than one-third of the compensation authorized for the county commissioners or county councilmen of the central county.

Any member of the council may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the council as provided in this section. The waiver, to be effective, must be filed any time after the member's selection and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

All members of the council shall be reimbursed for expenses actually incurred by them in the conduct of official business for the metropolitan municipal corporation.

Sec. 2. Section 22, chapter 34, Laws of 1939 as last amended by section 1, chapter 27, Laws of 1980 and RCW 52.14.010 are each amended to read as follows:

The affairs of the district shall be managed by a board of fire commissioners composed of three resident electors of the district except as provided

in RCW 52.14.015 and 52.14.020. ~~((The))~~ Each member(s) shall each receive ~~((twenty-five))~~ fifty dollars per day or portion thereof, not to exceed ~~((seventy-five))~~ four thousand eight hundred dollars per ~~((month))~~ year, for attendance at board meetings and for performance of other services in behalf of the district.

In addition, they shall receive necessary expenses incurred in attending meetings of the board or when otherwise engaged in district business, and shall be entitled to receive the same insurance available to all firemen of the district: PROVIDED, That the premiums for such insurance, except liability insurance, shall be paid by the individual commissioner, who elect to receive it. ~~((In any district which has a fire department owning and operating motor-powered fire fighting equipment and employing personnel on a full time, fully paid basis, fire commissioners, in addition to expenses as aforesaid, shall each receive twenty-five dollars per day, not to exceed one hundred twenty-five dollars per month, for attendance at board meetings and for performance of other services on behalf of the district.))~~

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which said compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The board shall fix the compensation to be paid the secretary and all other agents and employees of the district. The board may, by resolution adopted by unanimous vote, authorize any of its members to serve as volunteer firemen without compensation. A commissioner actually serving as a volunteer fireman may enjoy the rights and benefits of a volunteer fireman. The first commissioners shall take office immediately when qualified in accordance with RCW 29.01.135 and shall serve until after the next general election for the selection of commissioners and until their successors have been elected and have qualified and have assumed office in accordance with RCW 29.04.170.

Sec. 3. Section 1, chapter 187, Laws of 1975 1st ex. sess. and RCW 53.12.260 are each amended to read as follows:

Each commissioner(s) of a port district shall receive ~~((up to forty))~~ fifty dollars per day ~~((for each day))~~ or portion thereof spent (a) in actual attendance at official meetings of the port district commission, or (b) in performance of other service in behalf of the district: PROVIDED, That no commissioner shall receive compensation ~~((for more than seventy-two days))~~ to exceed five thousand eight hundred dollars for any calendar year: PROVIDED FURTHER, That no commissioner of a port district ~~((having a population of less than one hundred thousand persons according to the most recent United States census))~~ shall receive compensation ~~((for more~~

~~than forty-eight days)) to exceed four thousand eight hundred dollars for any calendar year if the port district had gross operating income of less than twenty-five million dollars in the preceding calendar year.~~

For any commissioner who has not elected to become a member of public employees retirement system before May 1, 1975, the compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state nor shall attendance at such meetings or other service on behalf of the district constitute service as defined in RCW 41.40.010(9); PROVIDED, That in the case of a port district when commissioners are receiving compensation and contributing to the public employees retirement system, these benefits shall continue in full force and effect notwithstanding the provisions of RCW 53.12.260 and 53.12.265.

Sec. 4. Section 4, chapter 207, Laws of 1951 as last amended by section 1, chapter 157, Laws of 1977 ex. sess. and RCW 54.12.080 are each amended to read as follows:

(1) Each public utility district commissioner of a district operating utility properties shall receive a salary during a calendar year which shall depend upon the total gross revenue of the district from its distribution system and its generating system, if any, for the fiscal year ending June 30th prior to such calendar year, based upon the following schedule:

REVENUE	SALARY
OVER \$15 million	\$500 per month
\$2 to 15 million	\$350 per month

Commissioners of other districts shall serve without salary unless the district provides by resolution for the payment thereof, which however shall not exceed two hundred dollars per month for each commissioner(~~(:PROVIDED, That a commissioner serving a term of office on September 21, 1977, in a district serving more than two thousand customers but with less than two million dollars gross annual revenue shall receive a salary of two hundred dollars per month through completion of the present term of office)).~~ In addition to salary, all districts may provide by resolution for the payment of per diem compensation to each commissioner at a rate not exceeding ((~~thirty-five~~)) fifty dollars for each day or major part thereof devoted to the business of the district, and days upon which he attends meetings of the commission of his district or meetings attended by one or more commissioners of two or more districts called to consider business common to them, but such ((~~per diem~~)) compensation paid during any one year to a commissioner shall not exceed ((~~five~~)) seven thousand dollars. Per diem compensation shall not be paid for services of a ministerial or professional nature.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his

or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3) Each district commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence.

(4) Any district providing group insurance for its employees, covering them, their immediate family and dependents, may provide insurance for its commissioner with the same coverage.

Sec. 5. Section 9, chapter 210, Laws of 1941 as last amended by section 1, chapter 92, Laws of 1980 and RCW 56.12.010 are each amended to read as follows:

The governing body of a sewer district shall be a board of commissioners consisting of three members. The commissioners shall annually elect one of their number as president and another as secretary of the board.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate (~~((not exceeding forty))~~) of fifty dollars for each day or (~~((major part))~~) portion thereof devoted to the business of the district: PROVIDED, That the (~~((per diem))~~) compensation for each commissioner shall not exceed (~~((twenty-four hundred))~~) four thousand eight hundred dollars per year. In addition, the secretary may be paid a reasonable sum for clerical services.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

No commissioner shall be employed full time by the district.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose, which shall be a public record.

Sec. 6. Section 7, chapter 114, Laws of 1929 as last amended by section 2, chapter 92, Laws of 1980 and RCW 57.12.010 are each amended to read as follows:

The governing body of a district shall be a board of water commissioners consisting of three members. The board shall annually elect one of its members as president and another as secretary.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate (~~((not exceeding forty))~~) of fifty dollars for each day or (~~((major part))~~) portion thereof devoted to the business of the district: PROVIDED, That the (~~((per diem))~~) compensation for each commissioner shall not exceed (~~((twenty-four))~~) four thousand eight hundred dollars per year. In addition, the secretary may be paid a reasonable sum for clerical services.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

No commissioner shall be employed full time by the district. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business, including his subsistence and lodging, while away from the commissioner's place of residence and mileage for use of a privately-owned vehicle at the mileage rate authorized in RCW 43.03-.060 as now existing or hereafter amended.

The date for holding elections and taking office as herein provided shall be subject to the provisions of any consolidated election laws that may be made applicable thereto although previously enacted.

Sec. 7. Section 15, chapter 264, Laws of 1945 as last amended by section 14, chapter 84, Laws of 1982 and RCW 70.44.050 are each amended to read as follows:

A district (~~((may))~~) shall provide by resolution for the payment of compensation to each of its commissioners at a rate (~~((not exceeding forty))~~) of fifty dollars for each day or (~~((major part))~~) portion thereof devoted to the business of the district, and days upon which he or she attends meetings of the commission of his or her own district, or meetings attended by one or more commissioners of two or more districts called to consider business common to them, except that the total compensation paid to such commissioner during any one year shall not exceed (~~((two))~~) four thousand (~~((four))~~) eight hundred dollars: PROVIDED, That commissioners may not be compensated for services performed of a ministerial or professional nature.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the

commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioners with the same coverage. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence. No resolution shall be adopted without a majority vote of the whole commission. The commission shall organize by election of its own members of a president and secretary, shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the commission shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 331

[Engrossed House Bill No. 327]

OPTICAL STROBE LIGHTS—USE RESTRICTED TO EMERGENCY AND LAW ENFORCEMENT VEHICLES

AN ACT Relating to motor vehicles; amending RCW 46.37.190 and 46.16.275; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 46.37.190, chapter 12, Laws of 1961 as last amended by section 1, chapter 101, Laws of 1982 and RCW 46.37.190 are each amended to read as follows:

(1) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than fourteen by eighteen inches displaying the word "stop" in letters of distinctly contrasting colors not less than eight inches high, and shall further be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red

lights located at the same level and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the commission on equipment for that purpose. The commission may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, or an authorized emergency or law enforcement vehicle. Optical strobe light devices shall not be installed or used on any vehicle other than an emergency vehicle authorized by the Washington state commission on equipment or a publicly-owned law enforcement or emergency vehicle. An "optical strobe light device" means a strobe light device which emits an optical signal at a specific frequency to a traffic control light enabling the vehicle in which the strobe light device is used to obtain the right of way at intersections.

(5) The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350.

***Sec. 2. Section 1, chapter 72, Laws of 1983 as amended by section 1, chapter 62, Laws of 1984 and RCW 46.16.275 are each amended to read as follows:**

On January 1, 1984, the department of licensing shall implement a system for recording the date of issuance of all vehicle license number plates.

Any person applying for an original or renewal vehicle license after January 1, 1989, shall be required to purchase new or replacement vehicle license number plates before obtaining a new certificate of title or new registration for the vehicle if the vehicle license number plates are five years old or older.

Any person applying for a renewal vehicle license after January 1, 1985, shall be required to purchase replacement vehicle license number plates if the vehicle license number plates were issued on or before January 1, 1968. The owner of a vehicle considered by the owner to be a collector's item may retain and use the pre-1968 plates, notwithstanding any other provisions of chapter 46.16 RCW to the contrary, provided the plates are legible. Otherwise, the provisions of this section shall not apply to a vehicle owned and operated primarily as a collector's item pursuant to RCW 46.16.310, 46.16.311, or 46.16.315.

***Sec. 2 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House April 26, 1985.

Passed the Senate April 25, 1985.

Approved by the Governor May 16, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 16, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Engrossed House Bill No. 327, entitled:

"AN ACT Relating to motor vehicles."

Section 1 of this bill would prohibit the use of optical strobe light devices on motor vehicles other than emergency or law enforcement vehicles.

Section 2 would provide that the owners of pre-1968 motor vehicles would retain their pre-1968 license plates if they consider their vehicles to be collector's items.

Current state law provides that a motor vehicle over thirty years old is a collector's item. The vehicle must be restored and in good working condition. The owner of a collector's item can keep the original plates if the plates are of the same year as the year the subject vehicle was manufactured.

Current law also mandates that all pre-1968 motor vehicle license plates must be replaced starting in January 1985 unless the vehicle can be classified as a collector's item. The purpose for this law is to aid law enforcement officials and to promote highway safety.

Section 2 would negate the current mandate for the replacement of all pre-1968 vehicle plates. The only basis for the determination that a vehicle owner would be exempt from current provisions is the owner's opinion that the vehicle is a collector's item. The Department of Licensing would not have the authority to evaluate the owner's claim or to establish rules for the determination of collector's items that are less than thirty years old.

The Department of Licensing estimates that there are over 500,000 motor vehicles in the pre-1968 category. Very few of these vehicles would be classified as collector's items under the current law. Indeed, the potential for abuse of the proposed law could be significant. With less persons complying with the intent of the current law, both the law enforcement and safety aspects of the law would be reduced.

Pre-1968 vehicle owners have been purchasing replacement plates since January 1985. The old plates have been destroyed, and the Department of Licensing has no authority to refund replacement plate fees. Thus, if enacted, Section 2 would create unequal protection for the motoring public.

For these reasons I have vetoed Section 2.

With the exception of Section 2, Engrossed House Bill No. 327 is approved."

CHAPTER 332

[Substitute House Bill No. 956]

LOCAL GOVERNMENT—PUBLIC CORPORATIONS—ESTABLISH TO CARRY OUT PUBLIC PURPOSES AND TO PERFORM PUBLIC FUNCTIONS

AN ACT Relating to local government; amending RCW 35.21.730, 35.21.745, 35.21.735, 35.21.740, 35.21.755, 39.50.010, and 39.50.040; adding new sections to chapter 35.21 RCW; and repealing RCW 35.21.725.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 37, Laws of 1974 ex. sess. and RCW 35.21-.730 are each amended to read as follows:

In order to improve the administration of authorized federal grants or programs, ~~((including revenue sharing,))~~ to improve governmental efficiency(;) and services, ((and)) or to improve the general living conditions in the urban areas of the state, any city, town, or county ~~((utilizing federal or private funds))~~ may by lawfully adopted ordinance or resolution:

(1) Transfer to any public corporation, commission, or authority created hereunder, with or without consideration, any funds, real or personal property, property interests, or services ~~((, all of which are received from the federal government or from private sources))~~;

(2) Organize and participate in joint operations or cooperative organizations funded by the federal government when acting solely as coordinators or agents of the federal government;

(3) Continue federally-assisted programs, projects, and activities after expiration of contractual term or after expending allocated federal funds as deemed appropriate to fulfill contracts made in connection with such agreements or as may be proper to permit an orderly readjustment by participating corporations, associations, or individuals ~~((PROVIDED, HOWEVER, That nothing herein shall be construed in a manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution))~~;

(4) Create public corporations, commissions, and authorities to: Administer and execute federal grants or programs; ((to)) receive and administer private funds, goods, or services for any lawful public purpose; ((and to)) and perform any lawful public purpose or public function. The ordinance or resolution shall limit the liability of such public corporations, commissions, and authorities to the assets and properties of such public corporation, commission, or authority in order to prevent recourse to such cities, towns, or counties or their assets or credit.

Sec. 2. Section 5, chapter 37, Laws of 1974 ex. sess. and RCW 35.21-.745 are each amended to read as follows:

Any city, town, or county which shall create a public corporation, commission, or authority pursuant to RCW 35.21.730 or 35.21.660, shall provide for its organization and operations and shall control and oversee its

operation and funds in order to correct any deficiency and to assure that the purposes of each program undertaken are reasonably accomplished.

Any public corporation, commission, or authority created as provided in RCW 35.21.730 may be empowered to own and sell real and personal property; to contract with individuals, associations, and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds and issue bonds and other instruments evidencing indebtedness; transfer(~~(, with or without consideration,)~~) any funds, real or personal property, property interests, or services (~~((received from the federal government, private sources or, if otherwise legal, from a city or county))~~); to do anything a natural person may do; and to perform all manner and type of community services (~~((utilizing federal or private funds))~~): PROVIDED, That such public corporation, commission, or authority shall have no power of eminent domain nor any power to levy taxes or special assessments.

Sec. 3. Section 3, chapter 37, Laws of 1974 ex. sess. and RCW 35.21-.735 are each amended to read as follows:

The legislature hereby declares that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for such a public corporation. The provisions of RCW (~~(35.21.725))~~ 35.21.730 through 35.21.755 and RCW 35.21.660 and 35.21.670 and the enabling authority herein conferred to implement these provisions shall be construed to accomplish the purposes of RCW (~~(35.21.725))~~ 35.21.730 through 35.21.755.

All cities, towns and counties shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend federal or private funds for any lawful public purpose.

Sec. 4. Section 4, chapter 37, Laws of 1974 ex. sess and RCW 35.21-.740 are each amended to read as follows:

Powers, authorities, or rights expressly or impliedly granted to any city, town, or county or their agents under any provision of RCW (~~(35.21.725))~~ 35.21.730 through 35.21.755 shall not be operable or applicable, or have any effect beyond the limits of the incorporated area of any city or town implementing RCW (~~(35.21.725))~~ 35.21.730 through 35.21.755, unless so provided by contract between the city and another city or county.

Sec. 5. Section 7, chapter 37, Laws of 1974 ex. sess. as last amended by section 1, chapter 116, Laws of 1984 and RCW 35.21.755 are each amended to read as follows:

A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption

from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW ((35.21.725)) 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

NEW SECTION. Sec. 6. A new section is added to chapter 35.21 RCW to read as follows:

Nothing in RCW 35.21.730 through 35.21.755 shall be construed in any manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution.

NEW SECTION. Sec. 7. A new section is added to chapter 35.21 RCW to read as follows:

It is the desire of the legislature that the citizens of newly incorporated cities or towns receive uninterrupted and adequate services in the period prior to the city or town government attaining the ability to provide such service levels. In addition to the services provided under RCW ____ (section 1, chapter 143, Laws of 1985), it is the purpose of this section to permit the county or counties in which a newly incorporated city or town is located to contract with the newly incorporated city or town for the continuation of essential services until the newly incorporated city or town has attained the

ability to provide such services at least at the levels provided by the county before the incorporation. These essential services may include but are not limited to, law enforcement, road and street maintenance, drainage, and other utility services previously provided by the county before incorporation. The contract should be negotiated on the basis of the county's cost to provide services without consideration of capital assets which do not continue to be amortized for principal and interest or depreciated by the county. The exception for not considering capital assets which are no longer amortized for principal and interest or depreciated is recognition of the preexisting financial investment of citizens of the newly incorporated city or town have made in county capital assets.

Nothing in this section limits the ability of the county and the newly incorporated city or town to contract for higher service levels or for other time periods than those imposed by this section.

Sec. 8. Section 2, chapter 216, Laws of 1982 and RCW 39.50.010 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Governing body" means the legislative authority of a municipal corporation by whatever name designated;

(2) "Local improvement district" includes local improvement districts, utility local improvement districts, road improvement districts, and other improvement districts that a municipal corporation is authorized by law to establish;

(3) "Municipal corporation" means any city, town, county, water district, sewer district, school district, port district, public utility district, metropolitan municipal corporation, public transportation benefit area, park and recreation district, irrigation district, or fire protection district or any other municipal or quasi municipal corporation described as such by statute, except joint operating agencies under chapter 43.52 RCW;

(4) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the municipal corporation exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency; and

(5) "Short-term obligations" are warrants, notes, or other evidences of indebtedness, except bonds(~~(- which mature in not to exceed three years after the date thereof)).~~).

Sec. 9. Section 5, chapter 216, Laws of 1982 as amended by section 2, chapter 71, Laws of 1985 and RCW 39.50.040 are each amended to read as follows:

Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations and may be funded by the issuance of revenue, local improvement district, special assessment, or general obligation bonds. Short-term obligations payable from taxes shall not be

renewed or refunded to a date later than six months from the end of the fiscal year in which the original short-term obligation was issued. For the purpose of this section, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be short-term obligations payable from taxes.

NEW SECTION. Sec. 10. Section 1, chapter 37, Laws of 1974 ex. sess. and RCW 35.21.725 are each repealed.

Passed the House April 28, 1985.

Passed the Senate April 28, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 333

[Substitute House Bill No. 660]

PRIVATE CARRIERS—DRIVER QUALIFICATIONS AND HOURS OF SERVICE STANDARDS

AN ACT Relating to private carriers; adding a new chapter to Title 46 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The Washington state patrol may adopt rules establishing standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(6). Such standards shall correlate with and, as far as reasonable, conform to the regulations contained in Title 49 C.F.R., Chapter 3, Subchapter B, Parts 391 and 395, on the effective date of this act. At least thirty days before filing notice of the proposed rules with the code reviser, the state patrol shall submit them to the legislative transportation committee for review.

NEW SECTION. Sec. 2. The delegation of rule-making authority contained in section 1 of this act is conditioned upon the continued receipt of federal funds or grants for the support of state enforcement of such rules. Within ninety days of finding that federal funds or grants are withdrawn or not renewed, the Washington state patrol and the Washington utilities and transportation commission shall repeal any and all rules adopted under section 1 of this act.

NEW SECTION. Sec. 3. A violation of any rule adopted by the Washington state patrol under section 1 of this act is a traffic infraction.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 46 RCW.

Passed the House April 28, 1985.

Passed the Senate April 27, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 334

[House Bill No. 357]

RECORDS RELEASE FOR RESEARCH PURPOSES—DISCLOSURE PROCEDURE
FOR DEPARTMENT OF CORRECTIONS, DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, AND INSTITUTIONS OF HIGHER EDUCATION

AN ACT Relating to disclosure of personal records for research purposes; adding a new chapter to Title 42 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; and (c) an institution of higher education as defined in RCW 28B.10.016.

NEW SECTION. Sec. 2. (1) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes if informed written consent for the disclosure has been given to the appropriate department secretary, or the president of the institution, as applicable, or his or her designee, by the person to whom the record pertains or, in the case of minors and legally incompetent adults, the person's legally authorized representative.

(2) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes without the informed consent of the person to whom the record pertains or the person's legally authorized representative, only if:

(a) The state agency adopts research review and approval rules including, but not limited to, the requirement that the appropriate department secretary, or the president of the institution, as applicable, appoint a standing human research review board competent to review research proposals as to ethical and scientific soundness; and the review board determines that the disclosure request has scientific merit and is of importance in terms of the agency's program concerns, that the research purposes cannot be reasonably accomplished without disclosure of the information in individually identifiable form and without waiver of the informed consent of the person to whom the record pertains or the person's legally authorized representative, that disclosure risks have been minimized, and that remaining risks are outweighed by anticipated health, safety, or scientific benefits; and

(b) The disclosure does not violate federal law or regulations; and

(c) The state agency negotiates with the research professional receiving the records or record information a written and legally binding confidentiality agreement prior to disclosure. The agreement shall:

(i) Establish specific safeguards to assure the continued confidentiality and security of individually identifiable records or record information;

(ii) Ensure that the research professional will report or publish research findings and conclusions in a manner that does not permit identification of the person whose record was used for the research. Final research reports or publications shall not include photographs or other visual representations contained in personal records;

(iii) Establish that the research professional will destroy the individual identifiers associated with the records or record information as soon as the purposes of the research project have been accomplished and notify the agency to this effect in writing;

(iv) Prohibit any subsequent disclosure of the records or record information in individually identifiable form except as provided in section 4 of this act; and

(v) Provide for the signature of the research professional, of any of the research professional's team members who require access to the information in identified form, and of the agency official authorized to approve disclosure of identifiable records or record information for research purposes.

NEW SECTION. Sec. 3. In addition to the copying charges provided in RCW 42.17.300, a state agency may impose a reasonable charge for costs incurred in providing assistance in the following research activities involving personal records:

(1) Manual or computer screening of personal records for scientific sampling purposes according to specifications provided by the research professional;

(2) Manual or computer extraction of information from a universe or sample of personal records according to specifications provided by the research professional;

(3) Statistical manipulation or analysis of personal record information, whether manually or by computer, according to specifications provided by the research professional.

The charges imposed by the agency may not exceed the amount necessary to reimburse the agency for its actual costs in providing requested research assistance.

NEW SECTION. Sec. 4. No research professional who has established an individually identifiable research record from personal record information pursuant to section 2(2) of this act, or who has established a research record from data or information voluntarily provided by an agency client or employee under a written confidentiality assurance for the explicit purpose of research, may disclose such a record in individually identifiable form unless:

(1) The person to whom the research record pertains or the person's legally authorized representative has given prior informed written consent for the disclosure; or

(2) The research professional reasonably believes that disclosure will prevent or minimize injury to a person and the disclosure is limited to information necessary to protect the person who has been or may be injured, and the research professional reports the disclosure only to the person involved or the person's guardian, the person's physician, and the agency; or

(3) (a) The research record is disclosed in individually identifiable form for the purposes of auditing or evaluating a research program; and

(b) The audit or evaluation is authorized or required by federal or state law or regulation or is based upon an explicit provision in a research contract, grant, or other written research agreement; and

(c) No subsequent disclosure of the research record in individually identifiable form will be made by the auditor or evaluator except as provided in this section; or

(4) The research record is furnished in compliance with a search warrant or court order: **PROVIDED**, That:

(a) The court issues the search warrant or judicial subpoena concerning the research record solely for the purpose of facilitating inquiry into an alleged violation of law by the research professional using the record for a research purpose or by the agency; and

(b) Any research record obtained pursuant to (a) of this subsection and any information directly or indirectly derived from the research record shall remain confidential to the extent possible and shall not be used as evidence

in an administrative, judicial, or legislative proceeding except against the research professional using the record for a research purpose or against the state agency.

NEW SECTION. Sec. 5. Unauthorized disclosure, whether wilful or negligent, by a research professional who has obtained an individually identifiable personal record or record information from a state agency pursuant to section 2(2) of this act is a gross misdemeanor. In addition, violation of any provision of this chapter by the research professional or the state agency may subject the research professional or the agency to a civil penalty of not more than ten thousand dollars for each such violation.

NEW SECTION. Sec. 6. Nothing in this chapter is applicable to, or in any way affects, the powers and duties of the state auditor or the legislative budget committee.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 42 RCW.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 335

[Engrossed Substitute House Bill No. 396]

PUBLIC ASSISTANCE ELIGIBILITY MODIFICATIONS

AN ACT Relating to making state eligibility requirements for grant assistance programs consistent with federal law; and amending RCW 74.12.035, 74.04.005, 74.04.660, and 74.08.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 10, Laws of 1981 2nd ex. sess. and RCW 74.12.035 are each amended to read as follows:

(1) A family or assistance unit is not eligible for aid for any month if for that month the total income of the family or assistance unit, without application of income disregards, exceeds one hundred (~~(fifty))~~ eighty-five percent of the state standard of need for a family of the same composition: PROVIDED, That for the purposes of determining the total income of the family or assistance unit, the earned income of a dependent child who is a full-time student for whom aid to families with dependent children is being provided shall be disregarded for six months per calendar year.

(2) Participation in a strike does not constitute good cause to leave or to refuse to seek or accept employment. Assistance is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of the month, participating in a strike. An individual's need shall not be included in determining the amount of aid payable for any month to a family or assistance unit if, on the last day of the month, the individual is participating in a strike.

(3) Children over eighteen years of age and under nineteen years of age who are full-time students reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before reaching nineteen years of age are eligible to receive aid to families with dependent children: PROVIDED HOWEVER, That if such students do not successfully complete such program before reaching nineteen years of age, the assistance rendered under this subsection during such period shall not be a debt due the state.

Sec. 2. Section 1, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 36, chapter 41, Laws of 1983 1st ex. sess. and RCW 74.04.005 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6) (a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance (~~(, by reason other than resource and income eligibility)~~); however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance; and

(ii) Are either:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of sixty days as determined by the department: PROVIDED, That persons in approved alcoholism or drug programs may be eligible for less than a sixty-day period in accordance with their plans((, or

~~(C) Eligible for supplemental security income and whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse)).~~

(b) Notwithstanding the provisions of subsection (6)(a)(i) and (ii) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and ~~((C))~~ (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(7) "Applicant"——Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"——Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as ~~((income))~~ a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as ~~((income))~~ a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand

five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, ~~((but))~~ except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property, but the recipient must sign an agreement to dispose of the property and repay assistance payments made to the date of disposition of the property which would not have been made had the disposal occurred at the beginning of the period for which the payments of such assistance were made. In no event shall such amount due the state exceed the net proceeds otherwise available to the recipient from the disposition, unless after nine months from the date of the agreement the property has not been sold, or if the recipient's eligibility for financial assistance ceases for any other reason. In these two instances the entire amount of assistance paid during this period will be treated as an overpayment and a debt due the state, and may be recovered pursuant to RCW 74.04.700.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance: PROVIDED, That the department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance: PROVIDED FURTHER, That in determining the amount of assistance to which an applicant or recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements: PROVIDED FURTHER, The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal

requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

*Sec. 3. Section 6, chapter 6, Laws of 1981 1st ex. sess. and RCW 74-.04.660 are each amended to read as follows:

The department shall establish a consolidated emergency assistance program for families with children (~~who are not eligible for any federally aided grant assistance provided through other programs~~). Assistance may be provided in accordance with this section.

(1) Benefits provided under this program shall not be provided for more than two months of assistance in any consecutive twelve-month period.

~~((3))~~ (2) Benefits under this program shall be provided to alleviate emergent conditions resulting from insufficient income and resources to provide for: Food, shelter, clothing, medical care, or other necessary items, as defined by the department. Benefits shall be provided only in an amount sufficient to cover the cost of the specific need, subject to the limitations established in this section.

~~((4))~~ (3) In determining eligibility for this program, the department shall consider all cash resources as being available to meet need.

~~((5))~~ (4) The department shall, by rule, establish assistance standards and eligibility criteria for this program in accordance with this section. Eligibility for this program does not automatically entitle a recipient to medical assistance. Eligibility standards and resource levels for this program shall be stricter than the standards for eligibility and resource levels for the aid to families with dependent children program.

(5) In order to ensure that state eligibility requirements for grant assistance programs are consistent with federal law, the department shall verify that a person applying for eligibility has properly disclosed all resources and income by using the federal procedure for computer matching of Internal Revenue Forms 1099. The department shall comply with this subsection by December 31, 1985, regardless of any federal waivers or exemptions.

(6) The department shall seek federal emergency assistance funds to supplement the state funds appropriated for the operation of this program. If the receipt of federal funds would require a reduction of funds available to households not receiving aid to families with dependent children below the amount of state funds appropriated for this program, the department may operate a program utilizing only state funds unless the aid to families with dependent children additional requirement program is substantially reduced in scope.

(7) If state funds appropriated for the consolidated emergency assistance program are exhausted, the department may discontinue the program.

*Sec. 3 was partially vetoed, see message at end of chapter.

Sec. 4. Section 74.08.060, chapter 26, Laws of 1959 as last amended by section 13, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.060 are each amended to read as follows:

The department shall be required to approve or deny the application within forty-five days after the filing thereof and shall immediately notify the applicant in writing of its decision: PROVIDED, That if the department is not able within forty-five days, despite due diligence, to secure all information necessary to establish his eligibility, the department is charged to continue to secure such information and if such information, when established, makes applicant eligible, the department shall pay his grant from date of authorization or forty-five days after date of application whichever is sooner.

~~((Any person entitled to relief but under temporary disability from making application, or any person about to become sixty-five years of age or the parent of an unborn child who upon birth will become a dependent child may at any time after forty-five days prior to the occurrence of any of said events make application as herein provided:))~~ **Any person currently ineligible, who will become eligible after the occurrence of a specific event, may apply for assistance within forty-five days of that event.**

The department is authorized, in respect to work requirements, to provide employment and training services, including job search, job placement, work orientation, and necessary support services to verify eligibility.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 16, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 16, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to subsection 5 of Section 3, Substitute House Bill No. 396, entitled:

"AN ACT Relating to making state eligibility requirements for grant assistance programs consistent with federal law;"

Subsection 5 of Section 3 would establish a state procedure for computer matching of Internal Revenue forms of all people applying for assistance in order to verify their income and resources. This procedure would be implemented by December 31, 1985. However, the federal government must be a partner in this endeavor, and the federal regulations upon which the procedures will be based have not been finalized. Therefore, since this program must be in place by federal requirement on October 1, 1986, the state should not implement a program at an earlier date that may need substantial revision to bring it into conformance with federal law.

With the exception of subsection 5 of Section 3, Substitute House Bill No. 396 is approved."

CHAPTER 336

[Substitute House Bill No. 358]

EMPLOYEE PERSONNEL FILES—INSPECTION AND CORRECTION BY
EMPLOYEE

AN ACT Relating to employees' personnel files; and adding new sections to chapter 49.12 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Every employer shall, at least annually, upon the request of an employee, permit that employee to inspect any or all of his or her own personnel file(s).

NEW SECTION. Sec. 2. (1) Each employer shall make such file(s) available locally within a reasonable period of time after the employee requests the file(s).

(2) An employee annually may petition that the employer review all information in the employee's personnel file(s) that are regularly maintained by the employer as a part of his business records or are subject to reference for information given to persons outside of the company. The employer shall determine if there is any irrelevant or erroneous information in the file(s), and shall remove all such information from the file(s). If an employee does not agree with the employer's determination, the employee may at his or her request have placed in the employee's personnel file a statement containing the employee's rebuttal or correction. Nothing in this subsection prevents the employer from removing information more frequently.

(3) A former employee shall retain the right of rebuttal or correction for a period not to exceed two years.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act do not apply to the records of an employee relating to the investigation of a possible criminal offense. Sections 1 and 2 of this act do not apply to information or records compiled in preparation for an impending lawsuit which would not be

available to another party under the rules of pretrial discovery for causes pending in the superior courts.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are each added to chapter 49.12 RCW.

Passed the House April 25, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 337

[Engrossed Substitute House Bill No. 1082]

ACCIDENT AND MEDICAL AID FUND PREMIUMS—EXPERIENCE AND RETROSPECTIVE RATING

AN ACT Relating to retrospective and experience rating for accident and medical aid fund premiums under industrial insurance; adding a new section to chapter 51.36 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intent of the legislature to require the department of labor and industries to implement experience rating and retrospective rating of both accident and medical aid fund premiums no later than January 1, 1989.

The legislature believes that experience rating industrial insurance premiums is a proven method of rewarding employers who promote workplace safety and can provide a significant incentive for employers and employees to reduce work related injuries. However, the legislature finds that before experience rating is implemented it is necessary to study its potential impact on small and large employers.

NEW SECTION. Sec. 2. The department of labor and industries shall report to the commerce and labor committees of the house of representatives and senate no later than December 1, 1986, regarding its plan to implement experience and retrospective rating of the medical aid fund premium, and the impact of experience rating on employer and employee medical aid fund premium rates, including but not limited to the average change in premium rates and the maximum and minimum modification factors for small and large employers.

NEW SECTION. Sec. 3. A new section is added to chapter 51.36 RCW to read as follows:

An employer may request review of billings for any medical and surgical services received by a worker by submitting written notice to the department. The department shall investigate the billings and determine whether the worker received services authorized under this title. Whenever such medical or surgical services are determined to be unauthorized, the

department shall not charge the costs of such services to the employer's account.

Passed the House April 24, 1985.

Passed the Senate April 22, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 338

[Engrossed Substitute House Bill No. 1085]

DEPARTMENT OF LABOR AND INDUSTRIES—PROMPT ACTION ON CLAIMS AND BILLINGS

AN ACT Relating to prompt actions by the department of labor and industries; amending RCW 51.36.080; and adding a new section to chapter 51.28 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 55, chapter 289, Laws of 1971 ex. sess. and RCW 51.36.080 are each amended to read as follows:

(1) All fees and medical charges under this title shall conform to regulations promulgated by the director and shall be paid within sixty days of receipt by the department of a proper billing in the form prescribed by department rule or sixty days after the claim is allowed by final order or judgment, if an otherwise proper billing is received by the department prior to final adjudication of claim allowance. The department shall pay interest at the rate of one percent per month, but at least one dollar per month, whenever the payment period exceeds the applicable sixty-day period on all proper fees and medical charges.

Beginning in fiscal year 1987, interest payments under this subsection may be paid only from funds appropriated to the department for administrative purposes. A record or payments made under this subsection shall be submitted twice yearly to the commerce and labor committees of the senate and the house of representatives and to the ways and means committees of the senate and the house of representatives.

Nothing in this section may be construed to require the payment of interest on any billing, fee, or charge if the industrial insurance claim on which the billing, fee, or charge is predicated is ultimately rejected or the billing, fee, or charge is otherwise not allowable.

(2) The director may establish procedures for selectively or randomly auditing the accuracy of fees and medical billings submitted to the department under this title.

NEW SECTION. Sec. 2. A new section is added to chapter 51.28 RCW to read as follows:

An employer shall be promptly notified by the department when it has determined that a worker of that employer is entitled to compensation under RCW 51.32.090. Notification shall include, in nontechnical language, an explanation of the employer's rights under this title.

Passed the House April 24, 1985.

Passed the Senate April 22, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 339

[Substitute House Bill No. 1084]

VOCATIONAL REHABILITATION

AN ACT Relating to vocational rehabilitation; amending RCW 51.32.095; adding new sections to chapter 51.32 RCW; creating a new section; repealing RCW 51.41.005, 51.41.010, 51.41.020, 51.41.030, 51.41.040, 51.41.050, 51.41.060, 51.41.070, 51.41.080, 51.41.090, and 51.41.100; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the vocational rehabilitation program created by chapter 63, Laws of 1982, has failed to assist injured workers to return to suitable gainful employment without undue loss of time from work and has increased costs of industrial insurance for employers and employees alike. The legislature further finds that the administrative structure established within the industrial insurance division of the department of labor and industries to develop and oversee the provision of vocational rehabilitation services has not provided efficient delivery of vocational rehabilitation services. The legislature finds that restructuring the state's vocational rehabilitation program under the department of labor and industries is necessary.

Sec. 2. Section 10, chapter 14, Laws of 1980 as last amended by section 2, chapter 70, Laws of 1983 and RCW 51.32.095 are each amended to read as follows:

(1) One of the primary purposes of this title is (~~the restoration of the injured worker~~) to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers shall utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation(~~(, retraining, and job placement)~~) as may be reasonable to (~~qualify the worker for employment~~) make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee,

whether or not medical treatment has been concluded, vocational rehabilitation (~~((or retraining with job placement))~~) is both necessary and likely to ~~((restore))~~ enable the injured worker to ~~((a form of))~~ become employable at gainful employment, ((including self-employment,)) the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection (3) of this section.

(2) When in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, then the following order of priorities shall be used:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of the previous job with a new employer;

(e) A new job with a new employer or self-employment based upon transferable skills;

(f) A new job with a new employer or self-employment involving on-the-job training;

(g) Short-term retraining and job placement.

(3) Costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed three thousand dollars in any fifty-two week period, and ~~((continue))~~ the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation ((or retraining with job placement)). Such expenses may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment: PROVIDED, That such compensation or payment of retraining with job placement expenses may not be authorized for a period of more than fifty-two weeks: PROVIDED FURTHER, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer as the case may be.

(4) The department shall establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations used under subsection (1) of this section. The state fund shall make referrals for vocational rehabilitation services based on these performance criteria.

(5) The department shall engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section.

(6) The benefits in this section shall be provided for the injured workers of self-insured employers. Self-insurers shall report both benefits provided and benefits denied under this section in the manner prescribed by the department by rule adopted under chapter 34.04 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

(7) The benefits provided for in this section are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims shall not be reopened solely for vocational rehabilitation purposes.

NEW SECTION. Sec. 3. A new section is added to chapter 51.32 RCW to read as follows:

On or before January 1st of each year, the office of financial management shall submit to the legislature a performance audit of the vocational rehabilitation activities under this chapter conducted by the industrial insurance division and self-insurers for the previous fiscal year. The performance audit shall include, but not be limited to, a statistical summary of all rehabilitation cases, an analysis of the cost-effectiveness of vocational rehabilitation services, including their effect on expenditures from the industrial insurance trust funds, and return-to-work data. The office of financial management may contract with a private firm to conduct the performance audit.

NEW SECTION. Sec. 4. A new section is added to chapter 51.32 RCW to read as follows:

Nothing in RCW 51.32.095 or in the repeal of chapter 51.41 RCW by section 5 of this act shall be construed as prohibiting the completion of vocational rehabilitation plans approved under this title prior to the effective date of this act. Injured workers referred for vocational rehabilitation services under this title, but for whom vocational rehabilitation plans have not been approved by the department under this title before the effective date of this act, may only be provided vocational rehabilitation services, if applicable, by the department according to the provisions of RCW 51.32.095.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 70, Laws of 1983 and RCW 51.41.005;
- (2) Section 1, chapter 63, Laws of 1982 and RCW 51.41.010;
- (3) Section 2, chapter 63, Laws of 1982 and RCW 51.41.020;
- (4) Section 3, chapter 63, Laws of 1982, section 1, chapter 86, Laws of 1983 and RCW 51.41.030;
- (5) Section 5, chapter 63, Laws of 1982, section 2, chapter 86, Laws of 1983 and RCW 51.41.040;
- (6) Section 8, chapter 63, Laws of 1982 and RCW 51.41.050;
- (7) Section 6, chapter 63, Laws of 1982, section 3, chapter 86, Laws of 1983 and RCW 51.41.060;
- (8) Section 9, chapter 63, Laws of 1982 and RCW 51.41.070;
- (9) Section 10, chapter 63, Laws of 1982 and RCW 51.41.080;
- (10) Section 4, chapter 63, Laws of 1982 and RCW 51.41.090; and
- (11) Section 7, chapter 63, Laws of 1982 and RCW 51.41.100.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 9, 1985.

Passed the Senate April 23, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 340

[Substitute House Bill No. 190]

ESCROW AGENTS

AN ACT Relating to escrow agents; and amending RCW 18.44.080, 18.44.110, 18.44.208, 18.44.220, 18.44.300, and 18.44.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 153, Laws of 1965 as last amended by section 7, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.080 are each amended to read as follows:

The director shall charge and collect the following fees:

(1) For filing an original or a renewal application for registration as an escrow agent, ~~((an))~~ annual ~~((fee of one hundred dollars))~~ fees for the first office or location and ~~((twenty-five dollars))~~ for each additional office or location.

(2) For filing an application for a change of address, ~~((ten dollars))~~ for each certificate of registration and for each escrow officer license being so changed.

(3) For filing an application for a duplicate of a certificate of registration or of an escrow officer license lost, stolen, destroyed, or for replacement ~~((, ten dollars))~~.

(4) For providing administrative support to the escrow commission.

All fees under this chapter shall be set by the director in accordance with RCW 43.24.086.

All fees received by the director under this chapter shall be paid by him into the state treasury to the credit of the general fund.

Sec. 2. Section 11, chapter 153, Laws of 1965 and RCW 18.44.110 are each amended to read as follows:

Each escrow agent's certificate shall expire at noon on the thirty-first day of December of any calendar year ~~((if it is not renewed on or before the twentieth day of December of such year))~~. Registration may be renewed by filing an application and paying the annual registration fee for the next succeeding calendar year.

Sec. 3. Section 36, chapter 287, Laws of 1984 and RCW 18.44.208 are each amended to read as follows:

There is established an escrow commission of the state of Washington, to consist of the director of licensing as ~~((ex officio member and))~~ chairman, and five members who shall act as advisors to the director as to the needs of the escrow profession ~~((and who))~~, including but not limited to the design and conduct of tests to be administered to applicants for escrow licenses, the schedule of license fees to be applied to the escrow licensees, educational programs, audits and investigations of the escrow profession designed to protect the consumer, and such other matters determined appropriate. Such members shall be appointed by the governor, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

The members of the first commission shall serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the commission shall receive a certificate of appointment from the governor and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The governor may remove any member of the commission for cause. Vacancies in the commission for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060.

Sec. 4. Section 9, chapter 245, Laws of 1971 ex. sess. as amended by section 13, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.220 are each amended to read as follows:

Any person desiring to be an escrow officer must successfully pass an examination. The person shall make application for an escrow officer examination on a form provided by the director and pay an examination fee (~~(of twenty-five dollars)~~). The applicant shall satisfy the director that the applicant is at least eighteen years old and is a resident of the state of Washington.

Sec. 5. Section 23, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.300 are each amended to read as follows:

Any person desiring to be an escrow officer must include with the application a license fee (~~(of fifty dollars)~~). Every escrow officer license issued under the provisions of this chapter expires on the date one year from the date of issue which date will henceforth be the renewal date. An annual license renewal fee in the same amount must be paid on or before each renewal date: PROVIDED, That licenses issued or renewed prior to September 21, 1977 shall use the existing renewal date as the date of issue. If the application for a renewal license is not received by the director on or before the renewal date such license is expired. The license may be reinstated at any time prior to the next succeeding renewal date following its expiration upon the payment to the director of the annual renewal fee then in default. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency. Licenses not renewed within one year of the renewal date then in default shall be canceled. A new license may be obtained by satisfying the procedures and qualifications for initial licensing, including where applicable successful completion of examinations.

Sec. 6. Section 24, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.310 are each amended to read as follows:

The license of an escrow officer shall be retained and displayed at all times by the certificated escrow agent, and when the officer ceases to represent the agent, the license shall cease to be in force. Notice of such termination shall be given by the next regular business day by the escrow agent to the director and such notice shall be accompanied by and include the surrender of the escrow officer's license. Failure to notify the director of

such termination after demand by the affected escrow officer shall work a forfeiture of the escrow agent's certificate of registration.

The director may hold the escrow officer's license inactive for a period not exceeding three consecutive years upon application of the escrow officer: PROVIDED, That the escrow officer shall pay the annual renewal fee. Such license may be activated upon application of a certificated escrow agent on a form provided by the director, endorsement by an escrow officer, and the payment of a ~~((ten-dollar))~~ fee. The director shall thereupon issue a new license for the unexpired term if such escrow officer is otherwise entitled thereto. An escrow officer's first license shall not be issued inactive.

Passed the House April 28, 1985.

Passed the Senate April 27, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 341

[Substitute House Bill No. 262]

COMMON SCHOOL PROVISIONS—OBSOLETE REFERENCES CORRECTED

AN ACT Relating to obsolete provisions in Title 28A RCW; amending RCW 28A.02.080, 28A.03.310, 28A.04.134, 28A.13.010, 28A.13.070, 28A.21.031, 28A.21.071, 28A.21.120, 28A.21.360, 28A.30.040, 28A.44.170, 28A.58.246, 28A.58.772, 28A.58.820, 28A.67.074, and 28B.15.543; repealing RCW 28A.03.400, 28A.03.401, 28A.03.402, 28A.03.403, 28A.03.405, 28A.03.407, 28A.03.409, 28A.13.065, 28A.41.250, 28A.41.270, 28A.41.280, 28A.41.290, 28A.41.412, 28A.58.248, 28A.58.832, and 28A.67.050; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 28A.02.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.02.080 are each amended to read as follows:

The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state (~~((and from all private or parochial high schools whose work is accepted in lieu of work otherwise performed in the public high schools))~~). The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section.

Sec. 2. Section 2, chapter 78, Laws of 1975 1st ex. sess. and RCW 28A.03.310 are each amended to read as follows:

The superintendent of public instruction shall, by rule or regulation in accordance with chapter 34.04 RCW, adopt a program under which all public schools within the state carrying out an elementary school program shall implement an appropriate screening device designed to identify children with learning/language disabilities to be administered to first grade students prior to their entrance into the second grade. (~~((After approval by the superintendent, or his designee, of any such appropriate screening device~~

~~offered by a particular school, such screening shall be administered not later than January 1, 1976. The results thereof shall be forthwith transmitted to the superintendent of public instruction who shall prepare a detailed report thereof for submission to the governor and to the house and senate education and ways and means committees of the legislature prior to February 1, 1976. Such reports shall include a description of the type of learning/language disabilities identified and the number of children involved therewith, together with recommendations for additional legislation as the superintendent deems appropriate. In no instance in conducting any program under this section shall disclosure of any individual test score obtained pursuant to such program be permitted except to the parents or guardians of such child. PROVIDED, That such scores, without identification of the individual concerned, may be utilized in the report and recommendations of the superintendent. PROVIDED, That the office of the superintendent of public instruction, the educational service districts, or the local districts will not use any additional personnel to implement RCW 28A.03.300 through 28A.03.320.))~~

Sec. 3. Section 1, chapter 127, Laws of 1975 1st ex. sess. and RCW 28A.04.134 are each amended to read as follows:

~~((By January 1, 1976))~~ The state board of education shall adopt rules or regulations establishing minimum standards for integrating school district library and media services into learning resources centers in order to improve instruction, encourage programs of learning resources services, and to furnish a basis for continuing evaluation for such programs.

Sec. 4. Section 28A.13.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 160, Laws of 1984 and RCW 28A.13.010 are each amended to read as follows:

There is established in the office of the superintendent of public instruction ~~((a division of special education for handicapped children, to be known as the division for handicapped children))~~ an administrative section or unit for the education of children with handicapping conditions.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children between the ages of ~~((five))~~ three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. ~~((Special education and training programs provided by the state and school districts~~

~~for handicapped children shall be extended to include preschool age children four years of age and older commencing with the 1984-85 school year and shall be extended to include preschool age children three years of age and older commencing with the 1985-86 school year.))~~ The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in this chapter, RCW 28A.24.100 and 28A.41.053, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of this chapter, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for handicapped children, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.13.050.

No child shall be removed from the jurisdiction of juvenile court for training or education under this chapter without the approval of the superior court of the county.

Sec. 5. Section 9, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.070 are each amended to read as follows:

The superintendent of public instruction shall have the duty and authority, through the ~~((division of special education))~~ administrative section or unit for the education of children with handicapping conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of handicapped children.

(2) Develop interdistrict cooperation programs for handicapped children as authorized in RCW 28A.58.245.

(3) Provide, upon request, to parents or guardians of handicapped children, information as to the handicapped programs offered within the state.

(4) Assist, upon request, the parent or guardian of any handicapped child in the placement of any handicapped child who is eligible for but not receiving special educational aid for handicapped children.

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to handicapped children.

(6) Adjudge, upon appeal by a parent or guardian of a handicapped child who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.13.060 to exclude such handicapped child was justified by the available facts and consistent with

the provisions of this chapter, RCW 28A.24.100 and 28A.41.053. If the superintendent of public instruction shall decide otherwise he shall apply sanctions as provided in RCW 28A.13.080 until such time as the school district assures compliance with the provisions of this chapter, RCW 28A.24.100 and 28A.41.053.

(7) Promulgate such rules and regulations as are necessary to implement the several provisions of this chapter, RCW 28A.24.100 and 28A.41.053 and to ensure educational opportunities within the common school system for all handicapped children who are not institutionalized.

***Sec. 6. Section 15, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.031 are each amended to read as follows:**

~~((On or before the twenty-fifth day of August, 1978, and))~~ Not later than the twenty-fifth day of August of ((every subsequent)) each year, the secretary to the state board of education shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions, rules, and regulations established by the state board of education for the conduct of the election.

***Sec. 6 was vetoed, see message at end of chapter.**

Sec. 7. Section 4, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.071 are each amended to read as follows:

(1) Every educational service district board shall employ and set the salary of an educational service district superintendent who shall be employed by a written contract for a term to be fixed by the board, but not to exceed three years, and who may be discharged for sufficient cause.

(2) There is hereby established within each educational service district an educational service district superintendent review committee. Such review committee shall be composed of two school district superintendents from within the educational service district selected by the educational service district board and a representative of the state superintendent of public instruction selected by the state superintendent of public instruction.

(3) Prior to the employment by the educational service district board of a new educational service district superintendent, the review committee shall screen all applicants for the position and recommend to the board a list of three candidates. The educational service district board shall select the new superintendent from the list of three candidates or shall reject the entire list and request the review committee to submit three additional candidates, and the educational service district board shall repeat this process until a superintendent is selected.

~~((4) To be eligible for nomination or selection to the office of educational service district superintendent, a candidate must meet the educational~~

~~and experience requirements statutorily set for school district superintendents. PROVIDED, That any person employed on September 21, 1977 as an educational service district superintendent or assistant superintendent shall be deemed qualified to hold the office of educational service district superintendent.))~~

Sec. 8. Section 12, chapter 176, Laws of 1969 ex. sess. as last amended by section 28, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21-.120 are each amended to read as follows:

The educational service district board shall designate the headquarters office of the educational service district. ~~((The board of county commissioners in each county, when so requested by the educational service district board, in each year prior to July 1, 1979, shall provide the educational service district superintendent and employees with suitable quarters and office, which shall include heating, contents insurance, electricity, and custodial services, for the operations of the educational service district. Commencing July 1, 1979.))~~ Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.21-.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district.

Sec. 9. Section 6, chapter 182, Laws of 1980 and RCW 28A.21.360 are each amended to read as follows:

Every educational service district board of directors shall establish an attendance incentive program for all certificated and noncertificated employees in the following manner. In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation: PROVIDED, That no employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

At the time of separation from educational service district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury (~~(; PROVIDED, That an employee shall be entitled to all the benefits conferred by this section as of June 12, 1980, but the educational service district may, in its discretion, delay payments due upon retirement or death, with interest at the rate of eight percent per year, to an eligible employee or the employee's estate until September 1, 1981)~~).

Moneys received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

Sec. 10. Section 28A.30.040, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 20, Laws of 1979 ex. sess. and RCW 28A.30.040 are each amended to read as follows:

There is created in the office of the state superintendent of public instruction a revolving fund to be designated the surplus and donated food commodities revolving fund (~~(; and there is hereby appropriated to said revolving fund from the general fund for the fiscal biennium ending June 30, 1981, the sum of seventy-five thousand dollars or so much thereof as shall be necessary to carry out the purposes of this chapter. The state treasurer shall, with the approval of the governor, transfer so much of this appropriation to the revolving fund from time to time as the superintendent deems necessary to maintain said fund in a condition adequate to carry out the purposes of this chapter)~~).

Sec. 11. Section 3, chapter 264, Laws of 1981 and RCW 28A.44.170 are each amended to read as follows:

~~((The implementation of RCW 28A.44.150 through 28A.44.230 and 84.52.0531 shall commence with the 1981-82 school year and consist of the following three stages of implementation:~~

~~(1) No later than December 31, 1981, the amounts due by the various nonhigh school districts to high school districts for the 1980-81 school year shall be fixed, certified and paid in accordance with the provisions of RCW 28A.44.080, 28A.44.085, 28A.44.090, and 28A.44.100 in a manner which recognizes advance payments made by nonhigh school districts toward such amounts as well as agreements between high school and nonhigh school districts for the payment of lesser amounts;~~

~~(2) At such time as the superintendent of public instruction determines and certifies the maximum amounts of school district levies allowable pursuant to RCW 84.52.0531, as now or hereafter amended, for collection in 1982, he shall also determine pursuant to subsections (1)(a) and (b) of RCW 28A.44.190 the estimated amount due by nonhigh school districts to high school districts for the 1981-82 school year; and~~

~~(3))~~ Each year ~~((thereafter))~~ at such time as the superintendent of public instruction determines and certifies such maximum allowable amounts of school district levies under RCW 84.52.0531 he or she shall also:

~~((a))~~ (1) Determine the extent to which the estimated amounts due by nonhigh school districts for the previous school year exceeded or fell short of the actual amounts due; and

~~((b))~~ (2) Determine the estimated amounts due by nonhigh school districts for the current school year and increase or decrease the same to the extent of overpayments or underpayments for the previous school year.

Sec. 12. Section 1, chapter 120, Laws of 1979 ex. sess. and RCW 28A.58.246 are each amended to read as follows:

The purposes of RCW 28A.58.246 ~~((through 28A.58.248))~~ and 28A-.58.247 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens; and

(5) Help develop a sense of community in which the citizens cooperate with the public schools and community agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program.

Sec. 13. Section 2, chapter 217, Laws of 1979 ex. sess. as amended by section 3, chapter 160, Laws of 1984 and RCW 28A.58.772 are each amended to read as follows:

Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.58.075 and 28A.58.245 or pursuant to chapter 39.34 RCW, each as now or hereafter amended, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.58.776, as now or

hereafter amended, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are ~~((five and less than twenty-one years of age until the 1984-85 school year and, commencing with the 1984-85 school year, for residents who are four years of age and less than twenty-one years of age and, commencing with the 1985-86 school year, for residents who are))~~ three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to chapter 28A.13 RCW, as now or hereafter amended, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a preschool special education program may be provided for handicapped residential school students;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education.

Sec. 14. Section 1, chapter 54, Laws of 1981 and RCW 28A.58.820 are each amended to read as follows:

Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of RCW 28A.58.820 through ~~((28A.58.832))~~ 28A.58.830 is to establish a consistent and uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state.

Sec. 15. Section 2, chapter 283, Laws of 1969 ex. sess. and RCW 28A.67.074 are each amended to read as follows:

No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of Title~~((s))~~ 28A ~~((or 28B))~~ RCW.

Sec. 16. Section 17, chapter 278, Laws of 1984 and RCW 28B.15.543 are each amended to read as follows:

(1) The boards of regents and trustees of the regional universities, state universities, and The Evergreen State College shall waive tuition, operating, and service and activities fees for two years for recipients of the Washington scholars award under RCW 28A.58.820 through ~~((28A.58.832))~~ 28A.58.830. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.50.

(2) The council for postsecondary education shall report to the legislature on or before January 15, 1986, on the tuition waivers for the Washington scholars program. The report shall include an evaluation and recommendations on the effect of extending the waivers for a period of four years.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.400;

(2) Section 2, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.401;

(3) Section 3, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.402;

(4) Section 4, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.403;

- (5) Section 5, chapter 89, Laws of 1977 ex. sess., section 2, chapter 198, Laws of 1981 and RCW 28A.03.405;
- (6) Section 6, chapter 89, Laws of 1977 ex. sess., section 1, chapter 89, Laws of 1979 and RCW 28A.03.407;
- (7) Section 7, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.409;
- (8) Section 2, chapter 160, Laws of 1984 and RCW 28A.13.065;
- (9) Section 1, chapter 85, Laws of 1974 ex. sess., section 6, chapter 87, Laws of 1980 and RCW 28A.41.250;
- (10) Section 3, chapter 85, Laws of 1974 ex. sess. and RCW 28A.41-.270;
- (11) Section 4, chapter 85, Laws of 1974 ex. sess. and RCW 28A.41-.280;
- (12) Section 5, chapter 85, Laws of 1974 ex. sess. and RCW 28A.41-.290;
- (13) Section 7, chapter 149, Laws of 1979, section 2, chapter 163, Laws of 1982 and RCW 28A.41.412;
- (14) Section 3, chapter 120, Laws of 1979 ex. sess. and RCW 28A.58-.248;
- (15) Section 7, chapter 54, Laws of 1981 and RCW 28A.58.832; and
- (16) Section 28A.67.050, chapter 223, Laws of 1969 ex. sess. and RCW 28A.67.050.

NEW SECTION. Sec. 18. Sections 4 and 13 of this act shall take effect August 1, 1985.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 16, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 16, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Substitute House Bill No. 262, entitled:

"AN ACT Relating to obsolete provisions in Title 28A RCW;"

Substitute House Bill No. 262 was introduced at the request of the Superintendent of Public Instruction to modify or repeal certain obsolete provisions of Title 28A RCW, the education code.

Due to a drafting oversight, the Section 6 modification is an updating of existing State Board of Education member election law rather than a change to reflect current practice. Current law provides that elections be held annually. In practice, these elections are held biennially. The State Board intended that this section be modified to authorize the practice of biennial elections. The State Board has requested a veto of this section, with the understanding that they will request mandatory legislation in 1986 to bring Board member election practice in line with statutory requirements.

With the exception of Section 6, which I have vetoed, the remainder of Substitute House Bill No. 262 is approved."

CHAPTER 342

[Substitute House Bill No. 391]

STATE PURCHASING—COMPETITIVE BIDDING REVISIONS

AN ACT Relating to state purchasing; and amending RCW 43.19.1906.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43.19.1906, chapter 8, Laws of 1965 as last amended by section 3, chapter 102, Laws of 1984 and RCW 43.19.1906 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939, as now or hereafter amended. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 as now or hereafter amended. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding twenty-five hundred dollars, or purchases not exceeding five thousand dollars when the purchases are made by colleges and universities and are limited to the acquisition of equipment and materials to be used for research purposes: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the twenty-five hundred dollar or the five thousand dollar bid limitation: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce ~~((this))~~ the formal sealed bid limits of twenty-five hundred dollars and five thousand dollars to a lower dollar amount for purchases by individual state agencies, including purchases of specialized equipment, instructional, and research equipment and materials by colleges and universities, if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from four hundred dollars to twenty-five hundred dollars or five thousand dollars, whichever is applicable, shall be secured from enough vendors to assure establishment of a competitive price. A record of competition for all such purchases from four hundred dollars to twenty-five hundred dollars or five thousand dollars, whichever is applicable, shall be documented for audit purposes on a standard state form approved by the

forms management center under the provisions of RCW 43.19.510. Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars with the approval of at least ten of the members of the state supply management advisory board, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935 as now or hereafter amended;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients; and

(6) Purchases by universities for hospital operation made by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor.

Passed the House March 1, 1985.

Passed the Senate April 25, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 343

[Engrossed Substitute House Bill No. 781]

WASHINGTON DISTINGUISHED PROFESSORSHIP PROGRAM

AN ACT Relating to higher education; adding new sections to chapter 28B.10 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

The legislature recognizes that the state four-year institutions of higher education would be strengthened by the establishment of a Washington distinguished professorship program. It is therefore the intent

of the legislature to establish the Washington distinguished professorship trust fund to provide the opportunity to the state four-year institutions of higher education to receive and match challenge grants to create endowments for selected distinguished scholars to occupy chairs within those institutions. Those institutions shall solicit and receive gifts from private sources to be matched by funds from the Washington distinguished professorship trust fund. When fifty percent of the funds necessary to establish a professorship have been contributed from private sources, the institution may apply for a transfer of the balance from the Washington distinguished professorship trust fund to establish a professorship. The institutions shall have the responsibility for maintaining and investing the endowment and expending the income to support the professorship.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW to read as follows:

There is established the Washington distinguished professorship trust fund for professorship challenge grants to be administered by the state treasurer. The legislature shall transfer to the trust fund a sum appropriated by the legislature from the general fund. All funds deposited into the trust fund shall be invested by the state treasurer. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for challenge grants.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.10 RCW to read as follows:

All state four-year institutions of higher education shall be eligible for matching trust funds. A state four-year institution of higher education shall not receive more than five professorships under section 2 of this act in any biennium. The amount transferred to the trust shall be allocated by the state treasurer to each institution on the basis of one two hundred fifty thousand dollar grant for each two hundred fifty thousand dollars raised from private sources. Matching funds shall come from contributions made after the effective date of this act, and pledged for the purpose of sections 1 through 5 of this act. To be eligible, the contributions shall be made specifically to the institution's endowment which shall be a local fund account dedicated to the distinguished professorship program. Each institution shall establish an endowment for each professorship created. When private funds have been contributed or pledged in the amount of two hundred fifty thousand dollars, the institution may apply for matching funds from the Washington distinguished professorship trust fund. Pledged donations must be in writing with the full balance of two hundred fifty thousand dollars to be deposited in the endowment within five years. Upon an application by an institution, the state treasurer shall designate two hundred fifty thousand dollars from the trust fund under section 2 of this act for that institution's pledged professorship. The treasurer shall not disburse those earmarked funds until the full two hundred fifty thousand dollars has been deposited. If

the pledged two hundred fifty thousand dollars is not deposited in the endowment within five years, the treasurer shall make the earmarked matching funds available for another pledged professorship.

NEW SECTION. Sec. 4. A new section is added to chapter 28B.10 RCW to read as follows:

The governing board or its designees shall be responsible for soliciting and receiving gifts to be used as matching funds. Each state four-year institution of higher education shall have the responsibility for the maintenance and investment of the endowed funds and for the administration of the program. Each institution shall include in a biennial report to the legislature information concerning collection and investment of matching gifts and the establishment of professorships.

NEW SECTION. Sec. 5. A new section is added to chapter 28B.10 RCW to read as follows:

When the sum of the challenge grant and matching funds reaches five hundred thousand dollars, a state four-year institution of higher education may establish a professorship to supplement the salary of existing faculty positions. The professorship, which is then the property of the institution, may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. The proceeds of the endowment may be used to supplement the salary and benefits of the person holding the professorship and of those individuals directly associated with the holder's scholarly work. The proceeds of the endowment may also be used for other expenses directly related to the holder's scholarly work.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.10 RCW to read as follows:

Any private or public moneys deposited in the Washington distinguished professorship trust fund or any local endowment for professorship programs shall not be subject to collective bargaining.

NEW SECTION. Sec. 7. *If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect.

*Sec. 7 was vetoed, see message at end of chapter.

Passed the House April 22, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor May 16, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 16, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 7, Substitute House Bill No. 781, entitled:

"AN ACT Relating to higher education."

The bill establishes the Washington Distinguished Professorship Trust Fund. This fund would provide state challenge grants of \$250,000 each to match an equal amount in private donations raised by the four-year institutions to create endowments for distinguished scholars.

Section 7 would make the entire act null and void if the Legislature does not provide specific funding for the distinguished professorship program by July 1, 1987. The bill requires the Legislature to appropriate a sum to the trust fund for the purpose of making the state challenge grants. Obviously, such grants cannot be made or promised until such funds are appropriated by the Legislature. Moreover, since state funds from the trust fund cannot be disbursed until the requisite private donations are deposited, Section 7 is unnecessary. Further, I believe the program is of sufficient merit to survive until state funds are made available, for these reasons, I have vetoed Section 7.

With the exception of Section 7, which is vetoed, Substitute House Bill No. 781 is approved."

CHAPTER 344

[Substitute House Bill No. 799]

SCHOOL DISTRICT COMMUNITY EDUCATION PROGRAMS—PARENTING SKILLS—CHILD ABUSE PREVENTION

AN ACT Relating to school districts' community education programs; amending RCW 28A.58.246 and 28A.58.247; and repealing RCW 28A.58.248.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 120, Laws of 1979 ex. sess. and RCW 28A.58.246 are each amended to read as follows:

The purposes of (~~RCW 28A.58.246 through 28A.58.248~~) this section and RCW 28A.58.247 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens including programs, if resources are available, to promote parenting skills and promote awareness of the problem of child abuse and methods to avoid child abuse;

(5) As used in this section, "parenting skills" shall include: The importance of consistency in parenting; the value of providing children with a balance of love and firm discipline; the instruction of children in honesty, morality, ethics, and respect for the law; and the necessity of preserving and nurturing the family unit; and

((5)) (6) Help develop a sense of community in which the citizens cooperate with the public schools and community agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program.

Sec. 2. Section 1, chapter 138, Laws of 1973 as amended by section 2, chapter 120, Laws of 1979 ex. sess. and RCW 28A.58.247 are each amended to read as follows:

Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: PROVIDED, That school districts are encouraged to provide programs for prospective parents, prospective foster parents, and prospective adoptive parents on parenting skills and on the problems of child abuse and methods to avoid child abuse situations: PROVIDED FURTHER, That ((such)) community education programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the state board for community college education and shall be programs receiving the approval of said superintendent.

NEW SECTION. Sec. 3. Section 3, chapter 120, Laws of 1979 ex. sess. and RCW 28A.58.248 are each repealed.

Passed the House April 25, 1985.

Passed the Senate April 26, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 345

[Engrossed Substitute House Bill No. 804]

TIRE RECYCLING

AN ACT Relating to public health and safety; amending RCW 70.95.010, 70.95.020, 70.95.030, and 70.95.260; adding new sections to chapter 70.95 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 134, Laws of 1969 ex. sess. as last amended by section 1, chapter 123, Laws of 1984 and RCW 70.95.010 are each amended to read as follows:

The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) The following priorities in the management of solid waste are necessary and should be followed in order of descending priority as applicable:

- (a) Waste reduction;
- (b) Waste recycling;
- (c) Energy recovery or incineration; and
- (d) Landfill.

(5) There is an imperative need to anticipate, plan for, and accomplish effective storage, control, recovery, and recycling of discarded vehicle tires with the subsequent conservation of resources and energy.

Sec. 2. Section 2, chapter 134, Laws of 1969 ex. sess. as amended by section 2, chapter 41, Laws of 1975-'76 2nd ex. sess. and RCW 70.95.020 are each amended to read as follows:

The purpose of this chapter is to establish a comprehensive state-wide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling;

(4) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(5) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

Sec. 3. Section 3, chapter 134, Laws of 1969 ex. sess. as last amended by section 2, chapter 123, Laws of 1984 and RCW 70.95.030 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "City" means every incorporated city and town.
- (2) "Committee" means the solid waste advisory committee.
- (3) "Department" means the department of ecology.
- (4) "Director" means the director of the department of ecology.
- (5) "Disposal site" means the location where any final treatment, utilization, processing, or depository of solid waste occurs.
- (6) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- (7) "Jurisdictional health department" means city, county, city-county, or district public health department.
- (8) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- (9) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.
- (10) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.
- (11) "Waste reduction" means reducing the amount or type of waste generated.
- (12) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.
- (13) "Energy recovery or incineration" means reducing the volume of wastes by use of an enclosed device using controlled flame combustion.
- (14) "Landfill" means a disposal facility or part of a facility at which waste is placed in or on land and which is not a land treatment facility.
- (15) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may

be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

NEW SECTION. Sec. 4. (1) No person may drop, deposit, discard, or otherwise dispose of vehicle tires on any public property or private property in this state or in the waters of this state whether from a vehicle or otherwise, including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley unless:

(a) The property is designated by the state, or by any of its agencies or political subdivisions, for the disposal of discarded vehicle tires; and

(b) The person is authorized to use the property for such purpose.

(2) A violation of this section is punishable by a civil penalty, which shall not be less than two hundred dollars nor more than two thousand dollars for each offense.

(3) This section does not apply to the storage or deposit of vehicle tires in quantities deemed exempt under rules adopted by the department of ecology under its functional standards for solid waste.

NEW SECTION. Sec. 5. There is levied and there shall be collected by the department of revenue from every person engaging within this state in business making retail sales of new replacement vehicle tires, an annual assessment equal to the gross proceeds of the sales of new replacement vehicle tires sold within this state, multiplied by twelve hundredths of one percent. All of the applicable provisions of chapter 82.32 RCW have full force and application with respect to taxes imposed under this section. For the purposes of this section, "new replacement vehicle tires" means tires that are newly manufactured for vehicle purposes and does not include re-treaded vehicle tires.

NEW SECTION. Sec. 6. There is created an account within the state treasury to be known as the vehicle tire recycling account. All assessments and other funds collected or received under this chapter shall be deposited in the vehicle tire recycling account and used for the administration and implementation of this chapter as provided by section 7 of this act.

NEW SECTION. Sec. 7. Moneys in the account may be appropriated to the department of ecology:

(1) To provide for funding to state and local governments for the removal of discarded vehicle tires from unauthorized tire dump sites; and

(2) To accomplish the other purposes of RCW 70.95.020(5).

Sec. 8. Section 26, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.260 are each amended to read as follows:

The department shall in addition to its other powers and duties:

(1) Cooperate with the appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the provisions of this chapter.

(2) Coordinate the development of a solid waste management plan for all areas of the state in cooperation with local government, the ~~((planning and community affairs agency or its successor))~~ department of community development, and other appropriate state and regional agencies. The plan shall relate to solid waste management for twenty years in the future and shall be reviewed biennially, revised as necessary, and extended so that perpetually the plan shall look to the future for twenty years as a guide in carrying out a state coordinated solid waste management program.

(3) Provide technical assistance to any person as well as to cities, counties, and industries.

(4) Initiate, conduct, and support research, demonstration projects, and investigations, and coordinate research programs pertaining to solid waste management systems.

(5) Develop state-wide programs to increase public awareness of and participation in tire recycling, and to stimulate and encourage local private tire recycling centers and public participation in tire recycling.

(6) May, under the provisions of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended, from time to time promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

NEW SECTION. Sec. 9. To aid in the state-wide tire recycling campaign, the legislature strongly encourages various industry organizations which are active in resource recycling efforts to provide active cooperation with the department of ecology so that additional technology can be developed for the tire recycling campaign.

NEW SECTION. Sec. 10. Sections 4 through 7 and 9 of this act are each added to chapter 70.95 RCW.

NEW SECTION. Sec. 11. The department of ecology shall submit a report to the appropriate committees of the legislature by January 1, 1987, on the implementation of sections 4 through 7 and 9 of this act.

Passed the House April 26, 1985.

Passed the Senate April 26, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 346

[Substitute House Bill No. 848]

PRISONER ESCAPE, RELEASE, OR FURLOUGH—NOTIFICATION PROCEDURES

AN ACT Relating to crimes and punishments; amending RCW 9.94A.030 and 43.43.745; and adding new sections to chapter 9.94A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9.94A RCW to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, work release placement, furlough, or escape, if such notice has been requested in writing about a specific inmate convicted of a violent offense, to all of the following:

(a) The chief of police of the city, if any, in which the inmate will reside, if known, or in which placement will be made in a work release program;

(b) The sheriff of the county in which the inmate will reside, if known, or in which placement will be made in a work release program;

(c) The victim, if any, of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(d) Any witnesses who testified against the inmate in any court proceedings involving the violent offense; and

(e) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a violent offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim, if any, of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(4) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

(5) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

The department of corrections shall provide the victims and next of kin in the case of a homicide and witnesses involved in violent offense cases where a judgment and sentence was entered after October 1, 1983, a statement of the rights of victims and witnesses to request and receive notification under sections 1 and 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW to read as follows:

Requests for notification under section 1 of this act shall be made by sending a written request by certified mail directly to the department of corrections and giving the defendant's name, the name of the county in which the trial took place, and the month of the trial. Notification information and necessary forms shall be available through the department of corrections, county prosecutors' offices, and other agencies as deemed appropriate by the department of corrections.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

The notification requirements of section 1 of this act are in addition to any requirements in RCW 43.43.745 or other law.

Sec. 5. Section 3, chapter 137, Laws of 1981 as last amended by section 3, chapter 209, Laws of 1984 and RCW 9.94A.030 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(4) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5).

(5) "Confinement" means total or partial confinement as defined in this section.

(6) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW.

(7) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(8) (a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" includes a defendant's convictions or pleas of guilty in juvenile court if: (i) The guilty plea or conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); and (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) the defendant had not reached his or her twenty-third birthday at the time the offense for which he or she is being sentenced was committed.

(9) "Department" means the department of corrections.

(10) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(11) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(12) "First-time offender" means any person convicted of a felony not classified as a violent offense under this chapter, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(13) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(14) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community.

(15) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(16) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(17) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(18) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(19) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, and vehicular homicide;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection ~~((18))~~ (19)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under subsection ~~((18))~~ (19)(a) or (b) of this section.

Sec. 6. Section 10, chapter 152, Laws of 1972 ex. sess. as amended by section 1, chapter 20, Laws of 1973 and RCW 43.43.745 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of ~~((social and health services))~~ corrections shall notify, forty-eight hours prior to the beginning of such furlough, the section that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the forty-eight

hour time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough. Upon receipt of furlough information pursuant to the provisions of this subsection the section shall notify the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest attachment of the Washington state patrol in the county wherein the furloughed prisoner shall be residing and such other criminal justice agencies as the section may determine should be so notified.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.04 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state board of prison terms and paroles, or is discharged from custody on expiration of sentence, the department of (~~social and health services~~) corrections shall promptly notify the section that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his release or discharge, and shall additionally notify the section of change in residence or conditions of release or discharge of persons on active parole supervision, and shall notify the section when persons are discharged from active parole supervision.

No city, town, county, or local law enforcement authority or other agency thereof may require that a convicted felon entering, sojourning, visiting, in transit, or residing in such city, town, county, or local area report or make himself known as a convicted felon or make application for and/or carry on his person a felon identification card or other registration document. Nothing herein shall, however, be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from such requirement which source may include any officer or other agency or subdivision of the state.

NEW SECTION. Sec. 7. A new section is added to chapter 9.94A RCW to read as follows:

Civil liability shall not result from failure to provide notice required under sections 1 through 6 of this act unless the failure is the result of gross negligence.

Passed the House April 27, 1985.

Passed the Senate April 27, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 347

[Engrossed Substitute House Bill No. 1089]

INDUSTRIAL INSURANCE—EMPLOYER VIOLATIONS—PENALTIES

AN ACT Relating to industrial insurance penalties; amending RCW 51.28.025, 51.48-.010, 51.48.017, 51.48.030, 51.48.040, 51.48.060, and 51.48.080; and adding a new section to chapter 51.48 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 39, chapter 289, Laws of 1971 ex. sess. as amended by section 5, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.28.025 are each amended to read as follows:

(1) Whenever an employer has notice or knowledge of an injury or occupational disease sustained by any workman in his employment who has received treatment from a physician, has been hospitalized, disabled from work or has died as the apparent result of such injury or occupational disease, he shall immediately report the same to the department on forms prescribed by it. The report shall include:

- (a) The name, address, and business of the employer;
- (b) The name, address, and occupation of the workman;
- (c) The date, time, cause, and nature of the injury or occupational disease;
- (d) Whether the injury or occupational disease arose in the course of the injured workman's employment;
- (e) All available information pertaining to the nature of the injury or occupational disease including but not limited to any visible signs, any complain'ts of the workman, any time lost from work, and the observable effect on the workman's bodily functions, so far as is known; and
- (f) Such other pertinent information as the department may prescribe by regulation.

(2) Failure or refusal to file the report required by subsection (1) shall subject the offending employer to a penalty ~~((of one hundred))~~ determined by the director but not to exceed two hundred fifty dollars for each offense, to be collected in a civil action in the name of the department and paid into the supplemental pension fund.

Sec. 2. Section 51.48.010, chapter 23, Laws of 1961 as last amended by section 20, chapter 63, Laws of 1982 and RCW 51.48.010 are each amended to read as follows:

Every employer shall be liable for the penalties described in this title and may also be liable if an injury or occupational disease has been sustained by a worker prior to the time he or she has secured the payment of such compensation to a penalty in a sum not less than fifty percent nor more than one hundred percent of the cost for such injury or occupational disease. Any employer who has failed to secure payment of compensation for his or her workers covered under this title may also be liable to a maximum penalty in a sum of ~~((two))~~ five hundred dollars or in a sum double the amount of premiums incurred prior to securing payment of compensation under this title, whichever is greater, for the benefit of the medical aid fund.

Sec. 3. Section 66, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.017 are each amended to read as follows:

If a self-insurer unreasonably delays or refuses to pay benefits as they become due there shall be paid by the self-insurer upon order of the director an additional amount equal to five hundred dollars or twenty-five percent of the amount then due, whichever is greater, which shall accrue for the benefit of the claimant and shall be paid to him with the benefits which may be assessed under this title. The director shall issue an order determining whether there was an unreasonable delay or refusal to pay benefits within thirty days upon the request of the claimant. Such an order shall conform to the requirements of RCW 51.52.050.

Sec. 4. Section 51.48.030, chapter 23, Laws of 1961 as last amended by section 21, chapter 63, Laws of 1982 and RCW 51.48.030 are each amended to read as follows:

Every employer who fails to keep the records required by this title or fails to make the reports provided in this title shall be subject to a penalty ~~((of))~~ determined by the director but not to exceed two hundred fifty dollars or two hundred percent of the quarterly premium for each such offense, whichever is greater.

Sec. 5. Section 51.48.040, chapter 23, Laws of 1961 and RCW 51.48.040 are each amended to read as follows:

The books, records and payrolls of the employer pertinent to the administration of this title shall always be open to inspection by the department or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the payroll, the men employed, and such other information as may be necessary for the department and its management under this title. Refusal on the part of the employer to submit his books, records and payrolls for such inspection to the department, or any asstant presenting written authority from the director, shall subject the

offending employer to a penalty ~~((of one hundred))~~ determined by the director but not to exceed two hundred fifty dollars for each offense and the individual who personally gives such refusal shall be guilty of a misdemeanor.

Sec. 6. Section 51.48.060, chapter 23, Laws of 1961 as last amended by section 71, chapter 350, Laws of 1977 ex. sess. and RCW 51.48.060 are each amended to read as follows:

Any physician who fails, neglects or refuses to file a report with the director, as required by this title, within five days of the date of treatment, showing the condition of the injured worker at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured worker, as required by this title, shall be subject to a civil penalty ~~((of one hundred))~~ determined by the director but not to exceed two hundred fifty dollars.

Sec. 7. Section 51.48.080, chapter 23, Laws of 1961 and RCW 51.48.080 are each amended to read as follows:

Every person, firm or corporation who violates or fails to obey, observe or comply with any rule of the department promulgated under authority of this title, shall be subject to a penalty of not to exceed ~~((two hundred and fifty))~~ five hundred dollars.

NEW SECTION. Sec. 8. A new section is added to chapter 51.48 RCW to read as follows:

(1) No employer may discharge or in any manner discriminate against any employee because such employee has filed or communicated to the employer an intent to file a claim for compensation or exercises any rights provided under this title. However, nothing in this section prevents an employer from taking any action against a worker for other reasons including, but not limited to, the worker's failure to observe health or safety standards adopted by the employer, or the frequency or nature of the worker's job-related accidents.

(2) Any employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this section may file a complaint with the director alleging discrimination within ninety days of the date of the alleged violation. Upon receipt of such complaint, the director shall cause an investigation to be made as the director deems appropriate. Within ninety days of the receipt of a complaint filed under this section, the director shall notify the complainant of his or her determination. If upon such investigation, it is determined that this section has been violated, the director shall bring an action in the superior court of the county in which the violation is alleged to have occurred.

(3) If the director determines that this section has not been violated, the employee may institute the action on his or her own behalf.

(4) In any action brought under this section, the superior court shall have jurisdiction, for cause shown, to restrain violations of subsection (1) of this section and to order all appropriate relief including rehiring or reinstatement of the employee with back pay.

Passed the House April 26, 1985.

Passed the Senate April 24, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.

CHAPTER 348

[Engrossed Substitute House Bill No. 1269]

EMERGENCY MEDICAL SERVICE PROPERTY TAX

AN ACT Relating to local government; and amending RCW 84.52.069.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 200, Laws of 1979 ex. sess. as amended by section 5, chapter 131, Laws of 1984 and RCW 84.52.069 are each amended to read as follows:

(1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, or fire protection district.

(2) A taxing district may impose additional regular property tax levies in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the taxing district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the electors thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such taxing district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition when the number of electors voting on the proposition exceeds forty per centum of the total votes cast in such taxing district in the last preceding general election. Ballot propositions shall conform with RCW 29.30.111.

(3) Any tax imposed under this section shall be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services.

(4) If a county levies a tax under this section, no taxing district within the county may levy a tax under this section. No other taxing district may levy a tax under this section if another taxing district has levied a tax under this section within its boundaries: PROVIDED, That if a county levies less than twenty-five cents per thousand dollars of the assessed value of property, then any other taxing district may levy a tax under this section equal to the difference between the rate of the levy by the county and twenty-five cents: PROVIDED FURTHER, That if a taxing district within a county levies this tax, and the voters of the county subsequently approve a levying of this tax, then the ((tax levy for emergency medical services shall cease being levied in the taxing district originally levying it and shall be replaced with the county-wide levy)) amount of the taxing district levy within the county shall be reduced, when the combined levies exceed twenty-five cents. Whenever a tax is levied county-wide, the service shall, insofar as is feasible, be provided throughout the county: PROVIDED FURTHER, That no county-wide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county: AND PROVIDED FURTHER, That this section and RCW 36.32.480 shall not prohibit any city or town from levying an annual excess levy to fund emergency medical services: AND PROVIDED, FURTHER, That if a county proposes to impose tax levies under this section, no other ballot proposition authorizing tax levies under this section by another taxing district in the county may be placed before the voters at the same election at which the county ballot proposition is placed: AND PROVIDED FURTHER, That any taxing district emergency medical service levy that is authorized subsequent to a county emergency medical service levy, shall expire concurrently with the county emergency medical service levy.

(5) The tax levy authorized in this section is in addition to the tax levy authorized in RCW 84.52.043.

(6) The limitation in RCW 84.55.010 shall not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section.

Passed the House April 22, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 16, 1985.

Filed in Office of Secretary of State May 16, 1985.